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Assembly Proceedings

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Bengal Legislative Assembly

Fifth Session, 1939

14th, 15th, 16th, 20th and 21st June, 1939

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GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

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(11) The Hon'ble Mr. TAMIZUDDIN KHAN, in charge of the Public Health, Medical, Agriculture and Veterinary Departments.

GOVERNMENT OF BENGAL.

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The Hon'ble Khan Bahadur M. AZIZUL HAQUE, C.I.E.

DEPUTY SPEAKER.

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K. C. GHOSH, Esq.

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N

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R

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T.

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Z

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Zaman, Mr. A. M. A. [Hooghly *cum* Serampore (Registered Factories) Labour.]

THE BENGAL LEGISLATIVE ASSEMBLY PROCEEDINGS

(Official Report of the Fifth Session.)

Volume LIV No. 10.

Proceedings of the Bengal Legislative Assembly assembled under the provisions of the Government of India Act, 1935.

THE ASSEMBLY met in the Assembly House, Calcutta, on Wednesday, the 14th June, 1939, at 4-45 p.m.

Present:

Mr. Speaker (the Hon'ble Khan Bahadur M. AZIZUL HAQUE, C.I.E.) in the Chair, 9 Hon'ble Ministers and 190 members.

STARRED QUESTIONS

(to which oral answers were given)

Moni Begum Deposit Fund.

*489. **Maulvi ABDUL BARI:** (*a*) Will the Hon'ble Minister in charge of the Home (Political) Department be pleased to state whether a large sum of money was deposited with the Government known as Moni Begum deposit fund?

(*b*) If so, what was the amount?

(*c*) How has it been utilised?

(*d*) In what position does the fund stand now?

(*e*) Were there any conditions or condition attached to the fund at the time the money was deposited or later?

(*f*) If so, how and to what extent are those conditions being observed?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): Careful enquiries have shown that the subject-matter of the question is not within the scope of my responsibilities and I have no information on the subject.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state whose department has got to be addressed to in this connection?

The Hon'ble Khwaja Sir NAZIMUDDIN: I doubt if this is a subject for Provincial Government.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if any amount of the said fund was supposed to have been spent on educational work in the town of Murshidabad?

The Hon'ble Khwaja Sir NAZIMUDDIN: As I have stated, I am not in a position to answer this question, because whatever action is taken by the Government of Bengal is taken by them as agent of the Central Government and the answer should be sought from the Central Government.

Dr. NALINAKSHA SANYAL: Sir, on a question of order. The reply given to the question is that the Hon'ble Minister has no information on the subject. I presume that he has also no information as to whether it comes under the provincial jurisdiction or under the Central jurisdiction——

Mr. SPEAKER: That he has not said.

Dr. NALINAKSHA SANYAL: He says that careful enquiries have shown that the subject matter of the question is not within the scope of his responsibility. Will the Hon'ble Minister be pleased to state whether it is within the responsibility of the Provincial Government as a whole?

Mr. SPEAKER: He says as "agent of the Central Government".

Dr. NALINAKSHA SANYAL: Sir, arising out of that I would like to have your protection to find out—the Government of Bengal being constituted as it is to-day even when functioning as agent of the Government of India—if the activities of the Ministers are or are not liable to be reviewed in this Legislature in the same manner as their other activities. I submit, Sir, that in the Government of India

Act there is provision for the special responsibility of His Excellency and this is a matter which does not come under such special responsibilities as are definitely defined in the Act. That being the position, anything beyond that must be under the jurisdiction of the Government as a whole. I submit, therefore, that this is a subject which is within the jurisdiction of the Provincial Government and by that Government we mean the Ministers who are responsible to this House. That being the position, I would seek your protection for obtaining reply to this question.

Mr. SPEAKER: I will look into the matter as to what extent this House can put questions regarding matters in which the Government of Bengal function as agent of the Central Government.

Sir Nazimuddin, there is one point on which I want to be enlightened by you some time later, that is, whether in a matter in which the Government of Bengal function as agent of the Central Government this House can obtain information and without putting any responsibility on this Government or whether the agency function is such that no information can ever be given by the Government to the House.

The Hon'ble Khwaja Sir NAZIMUDDIN: I may refer to the answer "I have no information on the subject".

Dr. NALINAKSHA SANYAL: So far as this point is concerned?

Mr. SPEAKER: I will look into this matter.

Dr. NALINAKSHA SANYAL: In the last part he has said "I have no information on the subject".

Mr. SPEAKER: He sticks to it so far as this matter is concerned. He might have administered affairs relating to this fund as agent of the Central Government but not strictly speaking within the scope of the points that have been raisd.

Dr. NALINAKSHA SANYAL: In reply to my subsequent question he was pleased to state that as the Government of Bengal function as agent of the Central Government, this information could not be given. Am I to understand that the Government of Bengal as a whole do not possess any information?

Mr. SPEAKER: I will look into this matter.

Grievances of workmen in Chitpore Loco Sheds, Eastern Bengal Railway.

***500. Dr. SURESH CHANDRA BANERJEE** (*a*) Is the Hon'ble Minister in charge of the Commerce and Labour Department aware—

(*i*) that in the Chitpore Loco Shed of Eastern Bengal Railway the fitters and fitter-khalasies are some times made to work even 7 to 8 hours extra, but

(*ii*) they are not paid overtime for more than two hours;

(*iii*) that the matter has several times been brought to the notice of the Factory Inspector;

(*iv*) that the Factory Inspector, on receipt of the information, has inspected the Loco Shed several times; but

(*v*) that as yet the grievances of the workmen continue?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state what is the cause of this non-rectification of the grievances of the workers?

MINISTER in charge of the COMMERCE and LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) (*i*) No. The hours worked by these men are within the limits fixed by the Factories Act.

(*ii*) As overtime within the meaning of the Act is not worked this question does not arise.

(*iii*) Yes, in February, 1935, verbally and in June, 1937, in writing.

(*iv*) The first complaint was investigated and found to be unfounded. In regard to the second complaint, complainant (Secretary, Eastern Bengal Railway Union) failed to put up any specific instance of overtime being worked when requested by the Factory Inspector. A number of inspections have since failed to substantiate the allegation.

(*v*) No.

(*b*) Does not arise.

Mr. NIHARENDU DUTTA MAZUMDAR: With reference to answer (*a*) (*i*), will the Hon'ble Minister be pleased to state what is the basis of his statement that overtime within the meaning of the Act is not worked?

The Hon'ble Mr. H. S. SUHRAWARDY: The basis of the statement is answer (*a*)(*i*).

Release of political prisoners.

*501. **Rai HARENDRA NATH CHAUDHURI:** Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(a) how many political prisoners have been released since the 6th April, 1939;

(b) how many political prisoners suffering from serious or protracted illness have not yet been released;

(c) whether the cases of the prisoners referred to in (b) have been considered;

(d) if so, with what results;

(e) how many of the 124 political prisoners released by the Government before the 6th April, 1939, and without reference to the Advisory Committee appointed to consider the release of the political prisoners were released 6 months before the due dates of their release;

(f) how many of the political prisoners involved in the 113 cases recommended by the Advisory Committee before the 6th of April, 1939, were released one year before the due dates of their release;

(g) how many of the political prisoners have not been called for interview by the Advisory Committee up till now;

(h) the reasons for not calling them for interview;

(i) how many of the political prisoners have been recommended by the Advisory Committee to be released—

(1) subject to conditions imposed, and

(2) unconditionally;

(j) whether any of the political prisoners recommended for unconditional release by the Advisory Committee have been ordered to be released subject to conditions imposed by the Government;

(k) whether the cases of the following political prisoners suffering from various diseases have been considered, namely—

(1) Dhirendranath Bhattacharyya,

(2) Shanti Chakravarti,

(3) Bholanath Roy,

(4) Narendranath Das,

(5) Mani Dutt,

(6) Sudhir Chakravarti,

(7) Shorasi Maitra,

(8) Paresh Guha,

(9) Gour Chandra Saha,

(10) Dhirendra Nath Chakravarti, and

(11) Mrigendranath Bhattacharyya;

(*l*) if so, with what results;

(*m*) whether any petition for the release of political convict Profulla Kumar Sen, the only son of Babu Nabin Chandra Sen of Kandirpar, Comilla, on account of grave illness of his father was considered; and

(*n*) if so, with what result; and

(*o*) whether the said Babu Nabin Chandra Sen is still alive?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) Ten.

(*b*) to (*d*) Acting on medical advice and in accordance with their undertaking, Government released all prisoners suffering from serious and continued illness. The cases of prisoners suffering from physical disabilities of a less urgent nature were referred to the Committee. Of cases so referred nine remain in jail. In six of them the recommendations of the Committee, recently received, are now under the consideration of Government. One, formerly thought to be suffering from duodenal ulcer is convalescing in hospital from a successful operation for appendicitis and the remaining two who were offered conditional release to enable them to go to a sanatorium have refused to accept it.

(*e*) 58.

(*f*) 78.

(*g*) 56.

(*h*) I have no information.

(*i*) (1) 27, subject to conditions imposed.

(2) 148 unconditionally.

(*j*) Two.

(*k*) Presumably the hon'ble member refers to pris
terrorist crimes. No. (11) (Mrigendranath Bhatta
come under that category. The cases of all the others excepting No. (9) (Gour Chandra Saha, one of the 56 not yet dealt with) have been considered by the Advisory Committee.

(*l*) The Advisory Committee's recommendations are now under the consideration of Government.

(*m*) Yes.

(*n*) The prayer was refused.

(*o*) I have no information

Rai HARENDRA NATH CHAUDHURI: With reference to the last part of answer (*b*), will the Hon'ble Minister be pleased to state whether the conditions were imposed by the Committee or by the Government?

Rai HARENDRA NATH CHAUDHURI: Will the Hon'ble Minister be pleased to state why, when the committee advised unconditional release, Government thought it proper to impose conditions?

The Hon'ble Khwaja Sir NAZIMUDDIN: I believe in one case it was necessary because it was a case of tuberculosis and it is the policy of Government as far as possible to see that those people who are suffering from tuberculosis when released undertake to go to a tuberculosis sanatorium for treatment. It is not fair to release them especially when they are in a state which is contagious. In the other case also Government thought it necessary to impose conditions.

Rai HARENDRA NATH CHAUDHURI: Will the Hon'ble Minister be pleased to state whether conditions other than those of proceeding to sanatorium for treatment were imposed or not in the case of persons who were suffering from tuberculosis?

The Hon'ble Khwaja Sir NAZIMUDDIN: There were also other conditions besides that of going to a sanatorium.

Rai HARENDRA NATH CHAUDHURI: Will the Hon'ble Minister be pleased to state what are those conditions?

The Hon'ble Khwaja Sir NAZIMUDDIN: The conditions are the same as those imposed in the case of Nepal Chandra Das.

Rai HARENDRA NATH CHAUDHURI: Will the Hon'ble Minister be pleased to state whether one of the prisoners concerned was Ambica Charan Chakrabarty?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes.

Rai HARENDRA NATH CHAUDHURI: Will the Hon'ble Minister be pleased to state why, when the Advisory Committee did not consider it proper to impose other conditions, Government did impose them? What can be the justification in that case of the appointment of an advisory committee at all?

The Hon'ble Khwaja Sir NAZIMUDDIN: I think Government never appointed the committee with the object that every comma and semicolon of the recommendations of the committee should be accepted. They have so far accepted practically all the recommendations and as far as these two cases are concerned they have accepted the recommendation for release but they have thought it proper in the public interest to impose certain conditions.

Rai HARENDRA NATH CHAUDHURI: With reference to part (1) of the answer to question (*i*), will the Hon'ble Minister be pleased to state whether these 27 persons were recommended for release subject to conditions imposed by the committee or not?

The Hon'ble Khwaja Sir NAZIMUDDIN: Speaking from memory I believe they were not those whose cases were considered by the committee.

Rai HARENDRA NATH CHAUDHURI: Will the Hon'ble Minister be pleased to state if the figure 27 is not included in the number recommended by the committee, then how is the number made up?

The Hon'ble Khwaja Sir NAZIMUDDIN: From the answer it is obvious that they must have been those that were submitted by the committee.

Rai HARENDRA NATH CHAUDHURI: Will the Hon'ble Minister be pleased to refer to answers (*i*) (*1*) and (2) and see that the total will be somewhat near 175, but the Government have recently in a press-note stated that the committee appointed by the Government advised the release of 183 cases of terrorist convicts. If that be true, is the figure 27 included in the total number of recommended persons or not?

The Hon'ble Khwaja Sir NAZIMUDDIN: I must ask for notice.

Dr. NALINAKSHA SANYAL: With reference to answer to questions (*b*) to (*d*), will the Hon'ble Minister be pleased to state when the recommendations of the committee were received? (It is stated in the reply that "in six of them the recommendations of the committee recently received.")

The Hon'ble Khwaja Sir NAZIMUDDIN: As regards the actual date I ask for notice.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state what was the total number of such cases?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would like to know what the honourable member means by "such cases"?

Dr. NALINAKSHA SANYAL: The question (*b*) is "how many political prisoners suffering from serious or protracted illness have not yet been released. In the answer it is stated that the cases of prisoners suffering from physical disabilities of a less urgent nature were referred to the committee. Of cases so referred nine remain in jail". My question is whether there are any more cases which have not been referred?

The Hon'ble Khwaja Sir NAZIMUDDIN: Here is the reply. "Acting on medical advice and in accordance with their undertaking, Government released all prisoners suffering from serious and continued illness. The cases of prisoners suffering from physical disabilities of a less urgent nature were referred to the committee. Of cases so referred nine remain in jail."

Rai HARENDRA NATH CHAUDHURI: Why?

The Hon'ble Khwaja Sir NAZIMUDDIN: The rest of the answer will give the reason why.

Rai HARENDRA NATH CHAUDHURI: With reference to answer to (*b*) to (*d*), will the Hon'ble Minister be pleased to state whether these 9 persons have been included in the 11 persons mentioned in the answer to part (*k*) of the question?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think so. These are the cases that have been recommended by the committee and are under consideration.

Dr. NALINAKSHA SANYAL: With reference to answers (*g*) and (*h*) in which the number of persons whose cases have been sent up to the advisory committee has been stated as 56, and the reasons for not sending them up are stated to be such that Government have no information, will the Hon'ble Minister be pleased to state who is the competent authority to refer cases to the advisory committee?

Mr. SPEAKER: I think, Dr. Sanyal, you are making a confusion. In the question it is stated "how many prisoners have not been called for interview by the advisory committee". So here the committee is the authority.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state who is the competent authority to arrange the interview?

Mr. SPEAKER: The committee must do it.

Dr. NALINAKSHA SANYAL: The committee cannot; it is not the authority.

Who is the competent authority to call for interviews and arrange them?

The Hon'ble Khwaja Sir NAZIMUDDIN: Interviews are arranged at the request of the committee.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if the committee has given any direction that there is no necessity of interviewing these men?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have no information. I can say this that so far Government have not refused interview in any case in which the committee has made a request

Mr. SURENDRA NATH BISWAS: Will the Hon'ble Minister be pleased to state whether the case of one Mr. Phani Bhusan Das Gupta has been considered by the advisory committee?

Mr. SPEAKER: That question does not arise.

Rai HARENDRA NATH CHAUDHURI: With reference to answer (*n*), will the Hon'ble Minister be pleased to state the grounds of refusal?

The Hon'ble Khwaja Sir NAZIMUDDIN: Government do not think it right that those who are convicted should be allowed to go while they are serving the terms of imprisonment. I may state here that Government have made it an absolute rule that they would not make any distinction between this type of persons and other persons. As this has not been done in any other case, Government have refused in this case also.

Rai HARENDRA NATH CHAUDHURI: Is the Hon'ble Minister aware that in the case of certain political prisoners they were temporarily released at least to attend to their ailing parents?

The Hon'ble Khwaja Sir NAZIMUDDIN: As far as I know only in one exceptional case this was done.

Rai HARENDRA NATH CHAUDHURI: Will the Hon'ble Minister be pleased to state why cannot any exception be made in this case?

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think that this was right. In future that is not going to be done.

Rai HARENDRA NATH CHAUDHURI: Will the Hon'ble Minister be pleased to state whether he is aware that in other provinces, long-term prisoners have been released or rather given temporary leave?

The Hon'ble Khwaja Sir NAZIMUDDIN: As far as I am aware this is not correct. I think the honourable member is confusing the thing. A suggestion has been made by either U. P. or the C. P. Government for accepting a proposal of this kind, but that has not yet been put into practice.

Rai HARENDRA NATH CHAUDHURI: The Hon'ble Minister may take it from me that that proposal has been put into practice in U. P.

Dr. NALINAKSHA SANYAL: With reference to answer (*k*) will the Hon'ble Minister be pleased to state if Government is considering the desirability of extending the arrangements for politically convicted prisoners to prisoners who have been convicted of so-called terrorist crimes?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I have not been able to follow this question.

Dr. NALINAKSHA SANYAL: You have said that our esteemed colleague Rai Harendra Nath Chaudhuri has presumably made a mistake by referring to prisoners convicted of terrorist crimes as political prisoners and you have not given a detailed reply to all those cases except that of Mrigendranath Bhattacharya who does not come under that category. I wanted to know whether with regard to the question of release of political prisoners the definition of a political prisoner is going to be extended to those who have been convicted of so-called terrorist crimes.

The Hon'ble Khwaja Sir NAZIMUDDIN: I want to make the position clear. I think there is a misunderstanding. As far as the names mentioned there are concerned, all these cases have been referred to the Advisory Committee except that of No. 11.

Contracts in the Narayanganj Dockyard.

***502. Mr. S. A. SALIM:** (*a*) Will the Hon'ble Minister in charge of the Commerce and Labour Department be pleased to state—

(*i*) the year in which Narayanganj Dockyard was established; and

(*ii*) whether there is any kind of contract system in the Dockyard?

(*b*) If the answer to (*a*) (*ii*) is in the affirmative, will the Hon'ble Minister be pleased to lay on the table a statement showing since the foundation of the Dockyard—

(*i*) the number and nature of contracts given; and

(*ii*) the number of such contracts given to Mussalmans?

(*c*) Is the Hon'ble Minister considering the desirability of taking steps so that major contracts may be given to Mussalman candidates?

The Hon'ble Mr. H. S. SUHRAWARDY: (*a*) (*i*) 1925

(*ii*) Generally there is no contract system in the Dockyard. All repair work is carried on with workmen directly employed under the Dockyard.

(*b*) A statement is laid on the table of occasional work given out on contract from 1933-34. Figures of previous years are not available.

(*c*) It will be seen from the figures that Muslims are successfully competing for contract work and the intervention of Government does not appear to be necessary.

Statement referred to in the reply to clause (b) of starred question No. 502, showing contract works done by outsiders.

1933-34—Nil.

1934-35—Nil.

1935-36—Certain work of Flat "Countess" done by Mahbub Mia at a cost of Rs. 2,921-12.

1936-37—Nil.

1937-38—Earthwork in connection with dredging operation:

Muslim—

(1) Baburali Sardar—Rs. 110-12.

(2) Abdul Aziz Sardar—Rs. 215-12.

(3) Soban Sardar—Rs. 35.

Hindu—

(4) Nandalal Chakraverty—Rs. 51.

Departmental enquiry over Hossainpur troubles, Mymensingh.

*503. **Maulvi MD. ISRAIL:** (*a*) Is the Hon'ble Minister in charge of the Home Department aware—

(*i*) that the Government instituted a departmental enquiry about the troubles at Hossainpur, Mymensingh;

(*ii*) that only five non-officials were examined by the Committee;

(*iii*) that three out of these five non-officials were not given any hearing by the Committee;

(*iv*) that they made a petition duly stamped for being represented by a lawyer as their interpreter before the Committee;

(*v*) that the petition was returned without any remarks thereon;

(*vi*) that these three non-officials and many other non-officials called for the purpose were not examined, and

(*vii*) that they subsequently expressed their readiness to depose without a lawyer?

(*b*) Has the report of the Committee been submitted?

(*c*) What action, if any, has been taken thereon?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) (*i*) and (*b*) Yes.

(*ii*) Ten representative non-official witnesses were chosen in the presence of the Committee by the public themselves.

(*iii*) to (*vi*) Of these ten non-official witnesses, three (of whom two were the complainants in the petitions against the police) declined to make any statement without the help of a pleader, and persisted in their refusal, though the Committee were at some pains to explain that they only had to tell the truth in their own words.

(*vii*) No.

(*c*) It is still under consideration.

Mr. ABDUL WAHAB KHAN: Will the Hon'ble Minister be pleased to state the reasons for not affording the complainants an opportunity to engage a pleader in a petition against the police? In a departmental enquiry by the police authorities they felt that it would be most secure to engage a pleader.

The Hon'ble Khwaja Sir NAZIMUDDIN: It appears that the two officers who were asked to submit a report considered that it would be better as far as getting at facts was concerned if these people were to make representations direct without the assistance of any pleader.

Mr. ABDUL WAHAB KHAN: Will the Hon'ble Minister be pleased to state whether questions (*iv*) and (*v*) have been answered?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would refer the hon'ble member to see the answers (*iii*) to (*iv*).

Mr. ABDUL WAHAB KHAN: On a point of information, Sir. The question was whether they made a petition duly stamped nor being represented by a lawyer and whether the petition was returned without any remarks thereon. From the answer it does not appear that there was any reply to those questions.

The Hon'ble Khwaja Sir NAZIMUDDIN: I think it is quite clear that they did not consider it necessary that they should appear with lawyers. The petition was rejected.

The temporary staff in the administrative department of Medical College Hospitals.

***504. Mr. MIA ABDUL HAFIZ:** (*a*) Will the Hon'ble Minister in charge of the Public Health and Medical Department be pleased to state—

(*i*) the present number of the temporary employees in the administrative department of the Medical College Hospitals;

(*ii*) their names; and

(*iii*) the period of their service?

(*b*) Will the Hon'ble Minister be pleased to state the reasons why—

(*i*) they are not being confirmed; and

(*ii*) Secretary of the Medical College Hospitals has been confirmed?

(*c*) Are the Government considering the desirability of confirming the temporary staff? If so, when?

MINISTER in charge of the PUBLIC HEALTH and MEDICAL DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) (*i*) There are at present 6 employees holding temporary posts. There are 5 others holding permanent posts in a temporary capacity. The latter could not be permanently appointed as the original incumbents deputed to other appointments retain lien on their posts.

(*ii*) and (*iii*) A statement is laid on the table.

(*b*) (*i*) They are not being confirmed pending decision of the question of amalgamation of the separate offices of the College and Hospitals and that of revision of pays (in the general scheme of economy).

(*ii*) The post of Secretary, Medical College Hospitals, is permanent. The present incumbent was made permanent as the question of amalgamation did not affect his case and as the question of a revision of his pay did not arise on account of his having already reached the maximum of his scale.

(*c*) The whole matter is under my consideration in connection with the scheme for amalgamation of the two offices of the Medical College and Hospitals.

Statement referred to in the reply to clauses (a) (ii) and (iii) of starred question No. 504.

	Name.	Period of service.	Whether holding temporary or permanent posts.
		Years.	
1.	B. C. Bose	10	Temporary.
2.	J. N. Banerjee	10	Ditto.
3.	H. C. Mukherjee	6	Ditto.
4.	M. Rahman	3	Ditto.
5.	A. M. Chatterjee	3	Ditto.
6.	J. M. Sarkar	9	Ditto.
7.	Sk. M. Ali	8	Permanent.
8.	K. Nizamuddin	1	Ditto.
9.	Md. Ismail	3	Ditto.
10.	B. Ali Ahmed	7	Ditto.
11.	N. De	1	Ditto.

Primary Schools in Tippera.

*505. **Mr. ASIMUDDIN AHMED:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware—

(*i*) that the primary schools in the district of Tippera are few and far between;

(*ii*) that with the introduction of free primary schools many of the District Board-aided primary schools started before, are going to be abolished; and

(*iii*) that the situation of the free primary schools at a distance of one from another will entail a long walk for school-going children?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of taking steps for the continuance of the District Board-aided primary schools with the same District Board aid?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): I regret that it has not been possible to get the materials from local officers for a reply to these questions.

Mr. DHIRENDRA NATH DATTA: I think that this question (505) should stand over if it cannot be answered.

Mr. SPEAKER: On principle, some answer should be available.

Mr. DHIRENDRA NATH DATTA: No answer is available. The answer is "I regret that it has not been possible to get the materials from local officers for a reply to these questions".

Mr. SPEAKER: The question itself is such that it cannot be answered in the way desired.

Mr. DHIRENDRA NATH DATTA: If the question cannot be answered, can it not stand over till the next session?

Mr. SPEAKER: You may ask a supplementary question.

Mr. NIHARENDU DUTTA MAZUMDAR: Will the Hon'ble Minister be pleased to state what attempts were made to obtain all the necessary materials from the local officers?

The Hon'ble Mr. A. K. FAZLUL HUQ: Reference has got to be made to District Officers and that takes time

Mr. NIHARENDU DUTTA MAZUMDAR: How long does the Hon'ble Minister think that it will take to make a reference to District Officers and to get the necessary materials?

The Hon'ble Mr. A. K. FAZLUL HUQ: It won't take me long but I do not know how long they will take.

Mr. DHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to state when this question was put and when it was sent to the administrative department?

The Hon'ble Mr. A. K. FAZLUL HUQ: The District Officers were written to immediately but they are so very much worried about the present situation, political and other, that they have no time to reply to these questions.

Mr. DHIRENDRA NATH DATTA: Is that the reply of the District Magistrate? What political questions are troubling the District Magistrate of Tippera at the present time?

Mr. SPEAKER: That question does not arise.

Mr. DHIRENDRA NATH DATTA: It arises out of the reply given by the Hon'ble Minister.

Mr. NIHARENDU DUTTA MAZUMDAR: Do you rule the answer as irrelevant?

Mr. SPEAKER: You please put your question.

Mr. NIHARENDU DUTTA MAZUMDAR: Will the Hon'ble Minister be pleased to state whether he is prepared to secure all the materials at the earliest possible date and to supply us with the information.

The Hon'ble Mr. A. K. FAZLUL HUQ: That I am prepared to do.

Mr. DHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to state what political question——

Mr. SPEAKER: That question does not arise.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, I will continue the enquiry and supply the information as soon as I get it.

Appointments under Education Department from Muslims and Scheduled Castes.

*506. **Mr. RASIK LAL BISWAS:** Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing the number of—

(*a*) Muslims; and

(*b*) Scheduled Castes,

appointed section by section in all the different sections and grades, in the departments under him during the last official year containing in full the names, grades and positions of the persons appointed?

The Hon'ble Mr. A. K. FAZLUL HUQ: I regret that it has not been possible to collect the information in time for the current session.

Mr. NIHARENDU DUTTA MAZUMDAR: Will the Hon'ble Minister be pleased to give us the same assurance in reference to this question as he gave with regard to the previous question?

The Hon'ble Mr. A. K. FAZLUL HUQ: I have said that it has not been possible to collect the information in time for the current session. I will continue the enquiry.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state when his department received this question?

The Hon'ble Mr. A. K. FAZLUL HUQ: I want notice I cannot give the date off-hand.

Dr. NALINAKSHA SANYAL: Is it a fact that the question has been with his department for more than two months?

The Hon'ble Mr. A. K. FAZLUL HUQ: I do not know, but as I have said, when a question is put we have to make a reference and those who have to supply us with necessary materials are not under the scrutiny of anybody as we are under the scrutiny of the members of the Legislature.

Dr. NALINAKSHA SANYAL: They are under the scrutiny of Ministers.

The Hon'ble Mr. A. K. FAZLUL HUQ: That certainly takes time. We are trying to put pressure.

Mr. RASIK LAL BISWAS: মন্ত্রী মহাশয়, দয়া করে জানাবেন কি এই question এর জবাব সংগ্রহ তাঁর department এর লোকের অভাবের জন্যই হয় নাই, না ইহার অন্য কারণ আছে?

The Hon'ble Mr. A. K. FAZLUL HUQ: কাজের অধিকতা অত্যন্ত বেশী।

Mr. RASIK LAL BISWAS: মাননীয় মন্ত্রী মহাশয় কেন অতিরিক্ত লোক নিযুক্ত কোরে এই প্রশ্নের জবাব দিচ্ছেন না?

The Hon'ble Mr. A. K. FAZLUL HUQ: কে টাকা দেবে?

Mr. SPEAKER: I am afraid that if this sort of dilatory questions are put I will have to disallow the very questions. Members will realise that this question is put to elicit information regarding appointments section by section in all the different sections and grades in the departments under the Minister during the last official year containing in full the names, grades and positions of the persons appointed. If I had known it at the time—I was too busy then—I can assure you I would have disallowed it.

Dr. NALINAKSHA SANYAL: I submit that this relates only to the Education Department, and it is not so frightful as you seem to think. It concerns only new appointments during the last official year and will probably not be more than 50 cases.

The Hon'ble Khwaja Sir NAZIMUDDIN: But it concerns appointments made all over Bengal.

Mr. SPEAKER: I allowed this question on the assumption that Government would be able to obtain the necessary information, and therefore I did not want to defer it. But if a question is put as to why there has been delay and things like that, I will have to disallow it.

Mr. RASIK LAL BISWAS: ভবিষ্যতে যা হয় করবেন, কিন্তু আপনি allow কোরে এরকম মন্তব্য করতে পারেন না।

Mr. SPEAKER: That question does not arise.

Mr. JOGESH CHANDRA GUPTA: May I point out that the question relates to the amount of grants sanctioned for these various institutions?

Mr. SPEAKER: No, no; it relates to appointments.

All I say in this connection is that whenever questions like this are not answered, I expect that the members desire that the information should be available to them later on so that when the information has been furnished, they might utilise them.

Special Officer for Scheduled Castes education.

*507. **Mr. BANKU BEHARI MONDAL:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state who is the Special Officer for the Scheduled Castes Education, Bengal?

(*b*) Has the post been sanctioned by the Government with a grade pay?

(*c*) If not, when will the Government sanction the same?

(*d*) Where and in which post did the officer work last before his appointment as a Special Officer?

(*e*) Who is now working in the post left vacant by him?

(*f*) Has the post been filled up by a Scheduled Castes officer?

(*g*) If not, why not?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) Babu Raj Kumar Das.

(*b*) and (*c*) The post is temporary. It is usual for Government to create temporary posts in the first instance, permanency depending on the continued utility of the post.

(*d*) Sub-Inspector of Schools, Comilla, Sadar Circle.

(*e*) Maulvi Abdul Awwal.

(*f*) and (*g*) The resultant vacancy has been filled up by Upendra Chandra Mondal, but I am not aware if he is a member of the Scheduled Castes.

Mr. PRAMATHA RANJAN THAKUR: With reference to answer (*b*) and (*c*), will the Hon'ble Minister be pleased to state whether his salary is paid from the general fund or from the special grant of Rs. 5,00,000?

The Hon'ble Mr. A. K. FAZLUL HUQ: He is not paid out of the 5 lakhs grant.

Mr. ANUKUL CHANDRA DAS: Will the Hon'ble Minister consider the desirability of making the post permanent?

Mr. SPEAKER: That is a request for action.

Mr. ANUKUL CHANDRA DAS: Will the Hon'ble Minister be pleased to state why the Scheduled Caste vacancy has been filled by a non-Scheduled Caste officer?

The Hon'ble Mr. A. K. FAZLUL HUQ: There was no Scheduled Caste officer immediately available, but as soon as an opportunity occurs, a Scheduled Caste officer will be placed there.

Mr. ANUKUL CHANDRA DAS: Is the Hon'ble Minister aware that there are several Scheduled Castes officers in the cadre of Sub-Inspectors of Schools available even at the present time?

The Hon'ble Mr. A. K. FAZLUL HUQ: I have made enquiry, but they are very junior in service.

Grant sanctioned during the last official year for various Muslim institutions.

*508. **Mr. RASIK LAL BISWAS:** Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing for the last official year the amount of grant sanctioned for—

(*a*) Junior Madrassahs,

(*b*) Senior Madrassahs, both old type and others,

(*c*) High English Schools conducted by Muslims,

(*d*) Middle English Schools conducted by Muslims,

(*e*) Colleges, conducted by Muslims,

(*f*) Hostels for Muslim students, and

(*g*) other institutions of the Muslims, with their names and amount of grant given to each of the institutions?

The Hon'ble Mr. A. K. FAZLUL HUQ: The information is not readily available and, I regret to say, cannot be compiled in time for answer in this session.

Mr. JOGESH CHANDRA GUPTA: Again the same evasive reply!

Mr. SPEAKER: Mr. Gupta, I think you will realise that you cannot blow hot and cold in the same breath. There has been considerable pressure from my left that some answer should be given, and as a result I have also put as much pressure as I could on Government. It is therefore that the Hon'ble Ministers have to come prepared with some sort of reply. This is a reply of that nature.

Mr. JOGESH CHANDRA GUPTA: But the question relates to the amount of grants sanctioned, and this is available from the department itself, and for this no elaborate enquiry is necessary.

Mr. SPEAKER: I am afraid, not.

Mr. JOGESH CHANDRA GUPTA: Is it very difficult to find out the amount sanctioned?

Mr. SPEAKER: I know how difficult it is.

Mr. NIHARENDU DUTTA MAZUMDAR: Will the Hon'ble Minister be pleased to state whether every question put by Mr. Rasik Lal Biswas leads to political complications?

Mr. SPEAKER: That question does not arise.

Dr. NALINAKSHA SANYAL: With reference to the answer that the information is not available, will the Hon'ble Minister be pleased to state whether Government maintains any account or any record of grants sanctioned under different heads in the office of the Director of Public Instruction?

Mr. SPEAKER: You mean details?

Dr. NALINAKSHA SANYAL: No, Sir; I want to know the whole lump sum grant for junior madrassahs, senior madrassahs, English schools, both high and middle, etc. And for this I submit no specific enquiry is necessary.

The Hon'ble Mr. A. K. FAZLUL HUQ: Sir, I may mention for the information of the House that grants are made by various officers, some are made by Government direct, some by the Director of Public Instruction, some by the Inspectors of Schools, and some by the Assistant Inspectors for Muhammadan Education. They do it on their own responsibility, and it takes a lot of time to collect information about the grants made in the course of the year throughout the province of Bengal.

Dr. NALINAKSHA SANYAL: Sir, my question is whether or not Government maintain a complete account of the grants made. I have not asked him about the different authorities, but my question is whoever may be the authority, whether all the grants sanctioned are reported to the Director of Public Instruction. Moreover, this relates to the last official year which is closed, and there must have been complete accounts made of the whole of the last official year.

Mr. SPEAKER: The only point in your question is whether a detailed list of the grants is maintained in the department or not.

Dr. NALINAKSHA SANYAL: No, Sir. I want to know whether grants sanctioned by the different authorities are reported to the office of the Director of Public Instruction?

Mr. SPEAKER: Why should it come?

Dr. NALINAKSHA SANYAL: Because it concerns the department itself.

Mr. SPEAKER: You will know, Dr. Sanyal, more of it when you come to the Public Accounts Committee.

Dr. NALINAKSHA SANYAL: But I know, it comes. Government cannot be so recklessly maintained as not to be informed of the actual expenses incurred out of a total grant.

Mr. JOGESH CHANDRA GUPTA: Sir, I submit that whoever may be the distributing authority, the grants are made from the Provincial Fund. Therefore, the Minister in charge of the Education Department ought to be in a position to know what amount goes out of the provincial fund in respect of these institutions.

Mr. SPEAKER: I am afraid, this refers to junior madrassahs and such other details, and not to the budget heads in lump sum.

Mr. JOGESH CHANDRA GUPTA: I submit, the amount of grant sanctioned for A, B, C, D, E, etc., during the last official year should be available.

Mr. SPEAKER: I do not want to interfere in the matter if the Hon'ble Minister is prepared to answer the question.

The Hon'ble Mr. A. K. FAZLUL HUQ: Accounts of expenditure incurred must be sent to the head of the department, but it takes some time to come; sometimes it comes late, sometimes it comes early. This question must have been put at a time when the information might not have been available. But I do not understand why Mr. Rasik Lal Biswas is so anxious to know about grants to madrassahs. (Laughter.)

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if such accounts as he has already mentioned, and which are kept, are received at the office before the budget for the next year is prepared?

The Hon'ble Mr. A. K. FAZLUL HUQ: Next year means 1939-40. That will come within the course of this year.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that before the year concerned is completed, as this relates to the last year's figures, the entire account of the last year right up to the last day has got to be sent to the Accountant-General's office?

The Hon'ble Mr. A. K. FAZLUL HUQ: This relates to the 31st March, 1939. The difficulty is this: it may be that the figures come but it takes some time to collect them, and other formalities have got to be gone through before an answer can be given to a question of this nature. Payments are made up to the end of the year and so it takes some time to collect the figures before such a question can be answered.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister consider the desirability of collecting this information and placing it before the House as soon as possible?

The Hon'ble Mr. A. K. FAZLUL HUQ: Only regarding grants to the Muhammadan institutions?

Rai HARENDRA NATH CHAUDHURI: No, no; grants to all the institutions.

The Hon'ble Mr. A. K. FAZLUL HUQ: Grants to Madrassahs?

Dr. NALINAKSHA SANYAL: No, no; to all the institutions mentioned in the question. Please look at the question.

The Hon'ble Mr. A. K. FAZLUL HUQ: The institutions referred to in the question are junior madrassahs, senior madrassahs, both old type and others, high English schools conducted by Muslims, middle English schools conducted by Muslims, colleges conducted by Muslims, hostels for Muslim students and other institutions of the Muslims, with their names and amount of grant given to each of the institutions. Sir, I do not see the necessity of this scrutiny about the grants given to Muhammadan institutions.

Dr. NALINAKSHA SANYAL: Sir, the Hon'ble Minister has not answered my question.

The Hon'ble Khwaja Sir NAZIMUDDIN: On a point of order, Sir. Might I refer the honourable member to question (*g*) which mentions other institutions of the Muslims which receive grants? There may be institutions which may receive a grant of Rs. 2 only, but they also have to render accounts for it.

Dr. NALINAKSHA SANYAL: Question (*g*) refers only to Muslim institutions. Certainly, they are very limited.

Mr. JOGESH CHANDRA GUPTA: May I tell the Hon'ble the Chief Minister that Mr. Rasik Lal Biswas is the representative of the Scheduled Castes, and certainly the Scheduled Castes can claim equal advantages regarding education both being backward communities. That was the intention of Mr. Rasik Lal Biswas in asking that question.

The Hon'ble Mr. A. K. FAZLUL HUQ: No, no. There is something behind it.

Dr. NALINAKSHA SANYAL: Yes, there is something behind it. (Laughter.)

Educationally backward Caste Hindus.

*509. **Mr. ISWAR CHANDRA MAL:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing—

(*i*) the communities separately under the Caste Hindus in Bengal that the Government have enlisted as educationally backward communities;

(*ii*) the percentage of literates in those communities;

(*iii*) the number of scholarships and stipends, if any, reserved for the students of these communities?

(*b*) Will the Hon'ble Minister be pleased to state whether at the time of appointment to any post or posts the cases of candidates from the said communities are taken into consideration?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state how many candidates from the aforesaid communities have been appointed and under what departments from the 1st April, 1937?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) (*i*) A list of castes and tribes other than Scheduled Castes regarded as eligible for scholarships and stipends reserved for the educationally backward classes is laid on the table.

(*ii*) The information is not available except regarding Buddhists, 9·2 per cent. of whom are literate.

(*iii*) There are no scholarships or stipends exclusively reserved for students of the above castes or tribes.

(*b*) Except in regard to clerical appointments no reservation for appointments has been made for Caste Hindus enlisted by Government as educationally backward communities. The claims of eligible candidates from these communities are, however, duly considered in making appointments.

(*c*) The statistics cannot be collected in time for the present session.

Statement referred to in the reply to clause (*a*) (*i*) *of starred question No. 509, showing castes and tribes other than the Scheduled Castes who are regarded as eligible for scholarships and stipends reserved for the educationally backward classes.*

Bagals.	Kahars.
Buddhists.	Karanis.
Bunnas.	Khandait.
Chacks.	Kharga.
Chains.	Koiri.
Dhangar.	Korangas
Dhasa.	Mahatos.
Dulay.	Matial.
Gains.	Metia.
Gonds.	Mugs.
Jeoni.	Rohangia or Roshangia.

Hill Tribes of the Himalayas and of the Chittagong Hill Tracts and aboriginal tribes.

Mr. PRAMATHA RANJAN THAKUR: Sir, the question that I am going to ask has an important bearing on the rights and privileges of the Scheduled Castes. My question is: Have Government ever tried to induce these tribes and castes to enlist themselves as Scheduled Castes so that they may claim what they now want?

Mr. SPEAKER: I am afraid, I have not been able to understand your question. What is your question?

Mr. PRAMATHA RANJAN THAKUR: My question is very important, Sir——

Mr. SPEAKER: I do not want to know whether it is important or not, but what is your question?

Mr. PRAMATHA NATH THAKUR: Have Government ever tried to induce these tribes and castes to enlist themselves as Scheduled Castes so that they may claim what they want?

Mr. SPEAKER: I am afraid that question does not arise out of the original question to the Education Department.

Mr. PRAMATHA RANJAN THAKUR: Sir, special grants have been given to these tribes and castes as they have enlisted themselves as Scheduled Castes

Mr. SPEAKER: Mr. Thakur, you are suffering from a hoarse voice, probably coming from a meeting. I have not been able to follow your question. What is your question?

Mr. PRAMATHA RANJAN THAKUR: Sir, a list of the tribes and castes other than the Scheduled Castes who are eligible for scholarships and stipends has been given by the Hon'ble the Chief Minister, and, moreover, it is likely that they will get a certain percentage of appointments in the public services. My question is that before they do so, did Government take any steps to get them registered as Scheduled Castes to claim these rights?

Mr. SPEAKER: I am sorry I can't understand your question. Mr. Gupta, will you please help me?

Rai HARENDRA NATH CHAUDHURI: Sir, he wants to know whether the castes mentioned in the statement are included as Scheduled Castes. Evidently, they are not. In that case, why should they participate in the benefits and advantages granted only to the Scheduled Castes? That is his question as far as I have been able to make out.

Mr. SPEAKER: Mr. Thakur, the first part of your question is all right But the latter part of the question, namely, about their enjoying the rights and privileges of the Scheduled Castes, that does not arise.

Mr. PRAMATHA RANJAN THAKUR: I submit, Sir, that these tribes and castes are specially backward——

Mr. SPEAKER: Mr. Thakur, I cannot argue with you. What is your question?

Mr. PRAMATHA RANJAN THAKUR: My question is this: have Government ever tried to induce these tribes and castes to enlist themselves as Scheduled Castes so that they may claim what they want?

Mr. SPEAKER: How does that question arise?

Mr. PRAMATHA RANJAN THAKUR: Sir, it arises because these castes and tribes are claiming special rights.

Mr. SPEAKER: I am afraid, Mr. Thakur, that you are forgetting that this is a question about the educationally backward caste Hindus, and therefore in connection with this question you cannot ask a question of this nature. You can ask anything about the educationally backward caste Hindus, but you are really asking quite a different question.

Rai HARENDRA NATH CHAUDHURI: May I point out, Sir, that his question arises out of answer (*a*) (*i*) where it is stated: "A list of castes and tribes other than Scheduled Castes regarded as eligible for scholarships and stipends reserved for the educationally backward classes is laid on the table." Mr. Thakur's apprehension is that these castes and tribes are being allowed scholarships and stipends reserved for the Scheduled Castes.

Mr. SPEAKER: His point is: are these castes taking advantage of any scholarships and stipends specially intended for the Scheduled Castes?

Rai HARENDRA NATH CHAUDHURI: Yes, Sir.

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not think that that is Mr. Thakur's point at all.

Rai HARENDRA NATH CHAUDHURI: Why should you answer that questoin?

The Hon'ble Khwaja Sir NAZIMUDDIN: On a point of order, Sir. What Mr. Chaudhuri has said is a misrepresentation of Mr. Thakur's point. What Mr. Thakur wants to know is whether

Government have tried to induce these castes and tribes to be registered as Scheduled Castes. You can ask Mr. Thakur himself if that is so or not. Mr. Thakur is nodding his head to everything. (Laughter.)

Mr. SPEAKER: I am afraid both of you are wrong. (Laugter.) If I have understood Mr. Thakur aright, his point is whether Government have induced these castes to be considered as Scheduled Castes to take advantage of the rights and privileges enjoyed by the Scheduled Castes.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, will you ask Mr. Thakur to explain?

Mr. SPEAKER: Mr. Thakur, your question is that these educationally backward communities are being induced by Government (Rai HARENDRA NATH CHAUDHURI: Not induced.) Yes induced——that is the language used by him,—to be considered as Scheduled Castes?

Mr. PRAMATHA RANJAN THAKUR: Sir, my question is——

Mr. NIKUNJA BEHARI MAITI: On a point of order, Sir. I think Mr. Thakur's question does not arise at all out of the main question regarding the educationally backward caste Hindus. The question that has been asked by Mr Thakur has no bearing on the subject-matter of the main question, and therefore that question ought to be given a go-by.

Mr. PRAMATHA NATH THAKUR: Sir, here in the first part of the answer, *i.e.*, (*a*) (*i*), the Hon'ble the Chief Minister says "educationally backward"; again in answer (*b*) he has said "except in regard to clerical appointments.. . " So, as regards appointments in the public services they are claiming facilities for their education like the Scheduled Castes. Now if they want to enjoy this privilege they must first enlist themselves as Scheduled Castes before they can do so. That is my point.

Mr. SPEAKER: I am afraid your question does not arise out of the main question.

Mr. ATUL KRISHNA GHOSE: Will the Hon'ble Minister be pleased to state whether the number of appointments, stipends and scholarships which are being given to those backward people who are named in the list is going to curtail the privileges of the Scheduled Castes in any way?

The Hon'ble Mr. A. K. FAZLUL HUQ: No attempt has been made, was made or will be made to trespass on the privileges of the Scheduled Castes.

Mr. SURENDRA NATH BISWAS: Will the Hon'ble Minister be pleased to state, with reference to (*a*)(*iii*), whether Government have considered the desirability of spreading education amongst these castes and tribes——

Mr. SPEAKER: That question does not arise; here the question is about scholarships and stipends and you can ask questions on them.

Mr. SURENDRA NATH BISWAS: Will the Hon'ble Minister be pleased to consider the desirability of reserving scholarships and stipends exclusively for students of these castes and tribes so that education may spread among them?

The Hon'ble Mr. A. K. FAZLUL HUQ: As soon as sufficient number of students come forward from a particular community, the question of giving them aid will certainly be considered and it will be given as soon as a case is made out.

Mr. PRAMATHA RANJAN THAKUR: Most of these castes——

Mr. SPEAKER: Order, order. You must put your definite question and not make a speech.

Mr. PRAMATHA RANJAN THAKUR: Will the Hon'ble Minister be pleased to state if he is aware that the condition of most of the castes and tribes, a list of which he has given, is worse than that of the Scheduled Castes both economically and socially?

The Hon'ble Mr. A. K. FAZLUL HUQ: Yes, they are poorer than the Scheduled Castes.

Mr. PRAMATHA RANJAN THAKUR: Will the Hon'ble Minister be pleased to state if he is aware that most of these castes are worse educationally than the Scheduled Castes, such as, Namasudras, Rajbangshis and others?

The Hon'ble Mr. A. K. FAZLUL HUQ: I am sorry that they are

Mr. PRAMATHA RANJAN THAKUR: They are more backward.

The Hon'ble Mr. A. K. FAZLUL HUQ: That I do not know.

Mr. RASIK LAL BISWAS: এই questionএর জবাব না দেবার কারণ থাকতে পারে। গভর্ণমেণ্টের অনেক অসুবিধা হবে এই প্রশ্নের জবাব দিলে।

The Hon'ble Mr. A. K. FAZLUL HUQ: I do not know what these castes are.

Mr. RASIK LAL BISWAS: মন্ত্রী মহাশয় কি এই list এর দিকে নজর ক'রে দেখে জানিবেন Khondait, Koiri, Korangas এই সব জাতীর নাম Scheduled Castes এর list এ আছে। Buddhists ছাড়া এরাকি বুদ্ধাজী না অন্যজাতী।

Mr. SPEAKER: That question does not arise.

Mr. OHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to state if he is aware that the list that has been supplied here is not exhaustive and that there are other castes and communities who are far more educationally backward than even the Scheduled Castes?

Mr. SPEAKER: That question does not arise.

Mr. DHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to consider the desirability of making an enquiry into the matter so that the list may be made exhaustive in order to give educational facilities to these educationally backward communities?

Mr. SPEAKER: That question does not arise.

Mr. ATUL KRISHNA GHOSE: In view of the question of my honourable friend, Mr. Rasik Lal Biswas, and the answer given by the Hon'ble Chief Minister, the situation is now clear —

Mr. SPEAKER: I am afraid, your question does not arise.

Mr. ATUL KRISHNA GHOSE: While agreeing that some of the names mentioned in the list are already in the list of Scheduled Castes, will the Hon'ble Minister be pleased to enlighten us how the privileges of the Scheduled Castes are not infringed?

Mr. SPEAKER: He has not admitted that.

Mr. ATUL KRISHNA GHOSE: Let the Chief Minister say that the list given here does not include communities included in the list of Scheduled Castes?

Mr. SPEAKER: That does not arise.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Madrassah at Jatrapur Bandar in Rangpur.

239. Kazi EMDADUL HUQ: (*a*) Is the Hon'ble Minister in charge of the Education Department aware—

(*i*) that there exists a madrassah at Jatrapur Bander in police-station Kurigram, district Rangpur;

(*ii*) that this madrassah and its building are being maintained by the efforts of the local people; and

(*iii*) that no Government aid is being given to this institution?

(*b*) Do the Government consider the desirability of supplementing the expenditure of the institution by way of a grant-in-aid?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) (*i*) Yes. The madrassah has not yet applied for recognition.

(*ii*) and (*iii*) Yes.

(*b*) The madrassah being unrecognised is ineligible for grant under the grant-in-aid rules.

Kazi EMDADUL HAQUE: With reference to answer (*a*)(*i*), will the Hon'ble Minister be pleased to state if he is aware that the promoters of the institution referred to in my question have asked the local educational officers times without number for a visit to their institution and to grant it recognition if the institution deserved it as a result of their inspection?

The Hon'ble Mr. A. K. FAZLUL HUQ: I must have notice about this. At the present moment, I cannot say more than what I have already said. I will look into the matter.

Kazi EMDADUL HAQUE: Will the Hon'ble Minister be pleased to state if the institution has ever been visited by the departmental officers of the locality?

The Hon'ble Mr. A. K. FAZLUL HUQ: I am not aware of it.

Kazi EMDADUL HAQUE: Will the Hon'ble Minister be pleased to state if it is a fact that in the provisional list of contemplated free primary institutions in Kurigram prepared by the departmental officers, the name of this institution has not been included?

Mr. SPEAKER: That question does not arise.

Appointments from various communities under Education Department.

240. Maulvi ABDUL HAMID SHAH: Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing—

(*a*) the number of appointments made in each of the cadres of services under him during the period from 24th August last to the 15th February last;

(*b*) the number of Muhammadans, Scheduled Castes and Caste Hindus amongst those mentioned in (*a*); and

(*c*) the number of vacancies in each of the cadres of services under him of which the appointments have been kept in abeyance owing to the delay in the decision regarding the percentage resolution carried during the last Autumn Session of the Bengal Legislative Assembly?

The Hon'ble Mr. A. K. FAZLUL HUQ: I regret that it has not been possible to collect the information in time for the current session.

Percentage of Scheduled Castes population and Scheduled Castes free primary schools under District School Boards of Dacca and Mymensingh.

241. Mr. DHANANJOY ROY: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) the percentage of the Scheduled Castes population in the districts of Dacca and Mymensingh;

(*ii*) the percentage of Scheduled Castes free primary schools of both "A" and "B" type to total number of free primary schools in the districts with their names which have been sanctioned by the District School Boards of Dacca and Mymensingh showing separately the figures under each district;

(*iii*) the total number of existing Scheduled Castes primary schools in each district before the District School Boards have given sanction of any free primary schools; and

(*iv*) the percentage of Scheduled Castes free primary school teachers to the total number of primary school teachers, that the Government have—

(1) decided to appoint in the Dacca district, and

(2) appointed in the Mymensingh District?

(*b*) Are the Government considering the desirability of establishing a large number of free primary centres in areas where the Scheduled Castes predominate but where no such schools have been sanctioned by the District School Boards?

The Hon'ble Mr. A. K. FAZLUL HUQ: I regret that it has not been possible to obtain the information in time.

Re-excavation of the river Titas in Tippera.

242. Maulvi MUSTAFA ALI DEWAN: (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware that the river Titas in the district of Tippera in the subdivision of Brahmanbaria specially near Akhaura and Soshai has dried up to the detriment of the business and the fertility of the land through which that river passes?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of opening up the river?

(*c*) Is it a fact—

(*i*) that a sum was sanctioned for the opening up of the river Titas; but

(*ii*) that the sum was spent as a contribution to the Assam-Bengal Railway authority for widening the bridge of the Kurulia *khal*?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja Srischandra Nandy, of Cossimbazar): (*a*) The river Titas is silting up at places from Akhaura to Ujanishar. I have not ascertained whether Soshai is in this reach.

(*b*) A suitable remedy cannot be suggested as it appears that the siltation is mainly due to the Meghna flood at Lalpur holding up the discharge of the Titas.

(*c*) A sum of Rs. 32,000 out of the Government of India first grant for rural development was sanctioned as Government contribution to the expenditure to be incurred by the District Board on the resuscitation of the Kurulia *khal* inclusive of charges for the remodelling of the railway bridge over the *khal*. If the honourable member has reason to believe that the grant was applied towards a purpose for which it was not intended, I should be glad if he would give me details to enable me to look into the matter.

Mr. DHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to state the distance between Akhaura and Lalpur?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I want notice.

Mr. DHIRENDRA NATH DATTA: Is the Hon'ble Minister aware of the fact that the river Teesta is silting up at Akhaura where the water from the hill river Howrah falls?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: Yes.

Mr. DHIRENDRA NATH DATTA: In view of the answer (*b*), will the Hon'ble Minister be pleased to tell us if there is any way to prevent the silting up of the river Teesta?

The Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar: I am afraid not.

Muslim and Scheduled Castes employees in the Civil Courts of Bakarganj.

243. Maulvi ABDUL HAMID SHAH: (*a*) Will the Hon'ble Minister in charge of the Judicial and Legislative Department be pleased to lay on the table a statement showing separately for the last ten years the names of the Muhammadan and Scheduled Castes employees (both ministerial and menial)—

(*i*) appointed (permanently or temporarily); and

(*ii*) discharged (retired or not required) in the Civil Courts under the Judgeship of Bakarganj,

showing the educational qualification of each ministerial officer?

(*b*) What is the total number of all the ministerial officers and menial servants in the district now?

(*c*) How many of the said officers and servants are Muhammadans?

MINISTER in charge of the JUDICIAL and LEGISLATIVE DEPARTMENT (the Hon'ble Nawab Musharruff Hossain, Khan Bahadur): (*a*) The information is not available and cannot be obtained without an enquiry involving an expenditure of time and labour which Government regret they are not in a position to undertake.

	Ministerial officers.	Menials.
(*b*)	147	355
(*c*)	48	194

Vacancy caused by the death of Mr. Abdul Gani, a nominated member of Rangaseree Union Board in Bakarganj.

244. Mr. SADARUDDIN AHMED: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware that Abdul Gani, a nominated member of the Rangaseree Union Board under police-station and district Bakarganj, died?

(*b*) Has the vacancy caused by his death been filled up?

(*c*) If not, why not?

MINISTER in charge of the LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) and (*b*) Yes.

(*c*) Does not arise.

On a point of information.

Babu NARENDRA NARAYAN CHAKRABARTY: সভাপতি মহাশয়, আমার একটা কথা জিজ্ঞাস্য আছে। আমি গত April মাসে পাবনা-সিরাজগঞ্জের সাম্প্রদায়িক অবস্থা সম্বন্ধে একটা জরুরী প্রশ্নের notice দিয়েছিলাম তারপর সে বিষয় আমাকে বোলে দেওয়া হয় যে সেটা জরুরী প্রশ্ন হিসাবে উঠবে না। সেটা Starred question হিসাবে গ্রহণ করা হবে। ব্যক্তিগত হিসাবে আমি আপনাকে অনুরোধ ক'রেছি যেন বিষয়টার জবাব একটু শীঘ্রই দেওয়া হয়। এবং আপনি নিজেও সম্ভবত ভারপ্রাপ্ত মন্ত্রী মহাশয়কে ব'লেছেন জবাবটা যেন শীঘ্রই দেওয়া হয়। উত্তরোত্তর পাবনার অবস্থা সঙ্কটাপন্ন হোয়ে উঠ্‌ছে এ অবস্থায় আমি আমার জরুরী প্রশ্নের আবশ্যকতা বিশেষভাবে উপলব্ধি কোরছি। এই প্রশ্নের উত্তর পেলে বর্ত্তমান পরিস্থিতির একটুখানি হয়ত উন্নতি হোতে পারতো। অবস্থার পরিস্ফুটির জন্যও এই জরুরী প্রশ্নের উত্তরের খুব আবশ্যকতা রোয়েছে। কিন্তু দুমাস যদি এরকম একটা প্রশ্নের জবাব না দেওয়া হয় তা হলে কি মনে করা উচিত।

Mr. SPEAKER: Have you got the number of the question? What is the position, Sir Nazimuddin, of this question?

The Hon'ble Khwaja Sir NAZIMUDDIN: I have got some replies from the local officers, but they are not enough for the supplementary questions which, I am sure, my friend is bound to put. So I have asked for further information.

Mr. SPEAKER: But that is a question which has been pending for a very long time.

The Hon'ble Khwaja Sir NAZIMUDDIN: We are trying to get the answers from the local officers as soon as possible.

Mr. SPEAKER: But an answer should be given to the House.

The Hon'ble Khwaja Sir NAZIMUDDIN: I have already said that it is better not to answer this question in the public interest.

Babu NARENDRA NARAYAN CHAKRABARTY: সভাপতি মহাশয়, আপনার অবগতির জন্য আমি আর একটা কথা বলছি। আমি যে খবর ও ঘটনার উপর জরুরী প্রশ্ন দিয়েছি গভর্ণমেণ্ট যদি জানেন এগুলি মিথ্যা ঘটনা, প্রতিদিন কাগজে যে সব ঘটনার বিবরণ বেরুচ্ছে সেগুলি সত্য নয় বলে প্রকাশ্যে প্রতিবাদ করুন। কিন্তু এখানে "না" বোলে যাচ্ছাদুরী নেওয়া হবে কিন্তু প্রকাশ্যে প্রতিবাদ করা হবেনা এটার মানে কি?

Election of Members to Public Accounts Committee.

Mr. SPEAKER: The honourable members are aware that a ballot took place for the election of members of the Public Accounts Committee on the 1st June, 1939, and the following is the result of the election:—

(1) Rai Harendra Nath Chaudhuri,
(2) Khan Sahib Hamiduddin Ahmed,
(3) Mr. R. M. Sassoon,
(4) Dr. Nalinaksha Sanyal,
(5) Mr. Ramizuddin Ahmed,
(6) Mr. Abdur Rashid Mahmood,
(7) Mr. Ahmed Hosain, and
(8) Babu Upendra Nath Barman.

The Committee on Public Accounts shall consist of nine members, including the Finance Minister, who shall be a member ex-officio.

Point of Information.

Mr. ATUL KRISHNA GHOSE: On a point of information, Sir. You are aware of the fact that there are stray reports to the effect that due to the large havoc caused by the flood such and such men died of starvation. If a definite news that a certain person has died of starvation is received can it not come within the category of an adjournment motion?

Mr. SPEAKER: I am not prepared to answer this question now.

Point of Order.

Mr. ABDUR RAHMAN SIDDIQI: May I rise on a point of order which is more or less of a constitutional character? If an honourable member of this House is not able to explain his supplementary question properly and if the Chair cannot follow his explanation, is it proper and right for members of this House to ask innumerable supplementary questions to annotate it and try to explain it to the Chair?

Mr. SPEAKER: Unfortunately the Speaker of the House has to deal not only with the orders but with many disorders also in the House (laughter).

Mr. ABDUR RAHMAN SIDDIQI: I beg for a ruling from the Chair but if the Chair tries to follow the practice of the Hon'ble Ministers, then we shall be nowhere Therefore I beseech you, Sir, to tell us whether if an honourable member is unable to explain what is in his mind——

Mr. ATUL KRISHNA GHOSE: On a point of order, Sir.

Mr. ABDUR RAHMAN SIDDIQI: The honourable member should be told, Sir, that when I am on my legs he should not interfere. It is a point that deserves your attention.

Mr. SPEAKER: I may straightaway dispose of this matter. The Speaker of a House has certainly got the authority to disallow a question if he finds that a member has been putting the question in a manner which he cannot understand and the House also cannot understand. There is no doubt about that power. But at this early stage of the parliamentary system of Government when the system of interpellation is only developing, it is also desirable that the Speaker should help the honourable members to frame questions and try to find out the substantive meaning of the questions. That is why in many cases I have tried to evolve some meaning out of even chaotic questions.

Mr. ATUL KRISHNA GHOSE: What will be the situation if any supplementary reply of any Hon'ble Minister is not acceptable to the House?

Mr. SPEAKER: Equally same.

Babu NAGENDRA NATH SEN: May we know what will be the probable duration of the present session of the Legislative Assembly?

Mr. SPEAKER: That depends on the number of speeches that will be made (laughter).

GOVERNMENT BILL.

The Bengal Money-lenders Bill.

Clause 24.

Dr. NALINAKSHA SANYAL: On a previous occasion I moved that after clause 23 the following clause be inserted, namely:—

"24. Nothing in this Chapter shall apply to a company, and the Provincial Government, by notification in the Official Gazette, exempt from the operation of this Chapter any other body, corporate or incorporate".

This was the clause which was originally intended to be retained in the Bill. Government at that stage thought fit to have a clause like this retained because at that stage Government examined the implications of all the sections and sub-sections in a more comprehensive manner. This Chapter IV relates to the regulation of accounts of money-lenders. As you are aware, in the case of corporate bodies there is the provision of accounts being kept in a particular manner and the accounts being audited at the end of their annual accounting period under the provisions of the Indian Companies Act. It was, therefore, felt necessary that there should be no further imposition of fresh obligations on such companies which had already been submitting accounts under an existing Indian law. I seek to retain this clause simply because I feel that it would be hard on such companies to maintain two sets of account books, two sets of forms, one to please the Provincial Government and the other to come within the requirements of the Central law. It would be anomalous and absurd for a company which comes under the control and general guidance of the Registrar of Joint Stock Companies to again submit itself to the control or guidance of any provincial officer.

I seek to reinstate this clause only to remove that anomaly. In addition to that I wanted some flexibility to be retained and some power given to the Provincial Government to exempt such person or persons who might appear incapable of keeping accounts or who might for any other reason find it impossible to keep accounts as required under Chapter IV. As the Hon'ble Mr. Suhrawardy himself admitted, it would be extremely difficult, if not impossible, for widows, for persons who are not literate, to keep accounts or have accounts kept and to submit them in the form prescribed, and yet their transactions being very small there might not be any appreciable or noticeable burden on the debtor at all. I do not mean to suggest that in every such case, Government should allow exemptions, but I only want Government to be given that power so that if, after the passing of this Act, it is brought to the notice of the Government that there are certain cases

which are so hard that exception should be made, Government may effect such exceptions. As it now stands, Government has retained no such power. It is only to enable such power being retained whereby relief may be given to deserving cases in future that the latter part of the clause is proposed. I, therefore, submit that the old clause as proposed originally in the Bill be reinstated and this be taken as section 24 of the Act.

Babu NAGENDRA NATH SEN: Mr. Speaker, Sir, I beg to submit that clause 24 was originally in the Bill and it has been deleted by the Select Committee. The wisdom of the Select Committee in deleting this is not understandable. The matter has been put right by my friend Dr. Sanyal and Chapter IV is meant for the regulation of accounts of money-lenders. Seeing that the Indian Companies Act of 1913 and other Acts, namely, Insurance Act and so on, apply to bodies incorporate and they are enjoined to keep their accounts in some particular way, cannot that be regarded as sufficient compliance with the requirements of Chapter IV? Why should there be this duplication? That is the question to which an answer is respectfully sought from the Hon'ble Minister piloting this Bill. It will be seen that with regard to the banks, the depositors are in the position of creditors of banks. The banks periodically supply those depositors, who are their creditors, with accounts enabling the depositors to understand their position, the amounts which are in deposit, the interest which has accrued and so on and so forth. Take for example the Imperial Bank of India. With regard to the provisions made in Chapter IV of this Bill, if the Imperial Bank had not been exempted from the operations of the proposed Act it would have been necessary for the Imperial Bank and, for the matter of that, other private banks and loan companies which have not been excluded from the purview of this Act to supply their debtors with the accounts. The question is whether it is possible for any bank to supply their debtors with the accounts which are required to be given by a money-lender to his debtors periodically and to supply them with information as suggested in clauses 22 and 23. That will be an enormous amount of burden which will do no good to the debtors, or companies which are registered under the Indian Companies Act. With respect to private money-lenders, individual money-lenders, it can very well be said that the number of their debtors is not so very great as to debar them from furnishing the required information. And with regard to private money-lenders, clauses 20, 21, 22 and 23 are going to be adopted with some modification or other. The question is whether it would do any good by the application of these provisions to registered companies, registered banks and registered loan companies. Their accounts are always open to public criticism and they are regularly audited by certificated auditors. In view of these facts and when under the provisions of the Indian Companies Act the debtors are entitled to get information from those companies which are incorporated, the point

for consideration is whether the additional burden of making it obligatory upon them to furnish their debtors with the necessary information as contemplated in clauses 20 to 23 would be of any consequence or do any good to the debtors at all. Therefore I submit that the motion tabled by my friend Dr. Nalinaksha Sanyal ought to be accepted by Government.

The Hon'ble Mr. H. S. SUHRAWARDY: I must feel particularly grateful to Dr. Sanyal for this fresh mark of confidence on his part and on the part of his party in the present Government. (Dr. NALINAKSHA SANYAL: Because you won't be always there.) But I do not think, Sir, this Government is in any way anxious to be placed in an embarrassing position and to deal with applications for exemptions. We have tried our level best to anticipate difficulties and to exempt many institutions, the inclusion of which within the purview of this Act would impede credit and would create difficulties in the operation of this Act. We have excluded Scheduled Banks, and such other banks as would satisfy the requirements and needs of the people, we propose to notify and to exclude others under the category of "notified banks". We have excluded Insurance Companies, Provident Fund Societies, and similar institutions. We have excluded commercial loans, and I do not see any reason why we should take further powers to exclude such others as Government may either in its caprice or in its judgment think it necessary from the operation of this chapter. We think, Sir, that the provisions of this chapter are useful for debtors and borrowers. They really ought to know what is the amount of liability from time to time, and they ought also to be in a position to ascertain at a glance through prescribed forms the nature and the extent of the liability. They ought to be in a position to examine the stereotyped accounts with the greatest ease, and I see no reason why we should exempt companies and other institutions whom we have not exempted from the purview of this Bill. I do not think that the Provincial Government will gain much by such a provision being included within the purview of the Act; on the other hand it will be embarrassed by complications of various kinds, and I think the Provincial Government should be saved from that embarrassment.

Sir, before I sit down, I want to point out to this House that unfortunately the Hon'ble Nawab Musharruff Hossain, who is in charge of this Bill, is unwell and so unable to attend.

The motion of Dr. Nalinaksha Sanyal that after clause 23 the following clause be inserted, namely:—

"24. Nothing in this chapter shall apply to a company, and the Provincial Government may, by notification in the Official Gazette, exempt from the operation of this chapter any other body, corporate or incorporate,"

was then put and lost.

Clause 25.

Mr. SPEAKER: I shall now take up clause 25.

Dr. NALINAKSHA SANYAL: May I know, Sir, if in view of the assurance given by the Hon'ble Minister Government have examined the suggestion made by my esteemed friend Rai Harendra Nath Chaudhuri?

Mr. SPEAKER: Yes, I know there are two items. It would be better to ask about that when the amendment actually comes up.

The motion of the Hon'ble Mr. H. S. Suhrawardy that in clause 25(*1*)(*i*), line 1, the words "a loan" be substituted for the word "money", was then put and agreed to.

The motion of the Hon'ble Mr. H. S. Suhrawardy that in clause 25(*1*) (*iii*) for the word "money", in line 8, the word "loan" be substituted, was then put and agreed to.

The motion of the Hon'ble Mr. H. S. Suhrawardy that in clause 25(*1*) (*b*) the words "a loan", in line 1, be substituted for the word "money", was then put and agreed to.

Mr. SPEAKER: The point that was raised by Mr. Surendra Nath Biswas in connection with amendment No. 782 was this: that you are by statute making it obligatory on certain persons who were not the original contracting parties to accept certain responsibility. It would be proper therefore, according to them, if that information has to be supplied, it is to be done in a form to be prescribed by Government.

The Hon'ble Mr. H. S. SUHRAWARDY: I can give this undertaking that so far as this is concerned, we may standardise the form in the rules to be framed under this Act. In the rules we shall put down the forms.

Rai HARENDRA NATH CHAUDHURI: Are you prepared to amend the rule-making section?

Dr. NALINAKSHA SANYAL: Unless that rule-making power is taken under the Act, you cannot prescribe them in the rules.

The Hon'ble Mr. H. S. SUHRAWARDY: I do not think there can be any objection to accepting the amendments.

Mr. SPEAKER: The motion of Mr. Surendra Nath Biswas, accepted by the Hon'ble Mr. H. S. Suhrawardy, that in clause

25(*1*)(*iii*)(*b*), lines 3 to 5, for the words "all information necessary to enable him to comply with the provisions of this Act relating to the obligation to supply information" the words "in such form as may be prescribed all information" be substituted, was then put and agreed to.

The Hon'ble Mr. H. S. SUHRAWARDY: So far as amendment No. 783 is concerned, Sir, I cannot understand this cheese-pairing.

Mr. SURENDRA NATH BISWAS: You are imposing two kinds of liabilities, both civil and criminal, and for what offence?

Rai HARENDRA NATH CHAUDHURI: It ought to be a civil liability only.

The Hon'ble Mr. H. S. SUHRAWARDY: As I have already said, I do not appreciate this cheese-paring. It was put in by the Select Committee and it has been taken verbatim from the English Act which gives all these alternative punishments, and I see no reason why there should be any departure.

The motion of Mr. Surendra Nath Biswas that in clause 25 (2), lines 3 to 6, the following words be omitted, namely—

> "and shall also be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both",

was then put and a division taken with the following result—

AYES—38.

Banerji, Mr. P.
Banerjee, Mr. Satya Priya.
Banerjee, Dr. Suresh Chandra.
Basu, Mr. Jatindra Nath.
Basu, Mr. Santosh Kumar.
Bhaumik, Dr. Gobinda Chandra.
Biswas, Mr. Rasik Lal.
Biswas, Mr. Surendra Nath.
Bose, Mr. Sarat Chandra.
Chakraborty, Mr. Jatindra Nath.
Chakrabarty, Babu Narendra Narayan.
Chattopadhyay, Mr. Haripada.
Chaudhuri, Rai Narendra Nath.
Das, Babu Mahim Chandra.
Das, Babu Radhanath.
Das Gupta, Srijut Narendra Nath.
Datta, Mr. Dhirendra Nath.
Dutta Gupta, Miss Hira.
Ghose, Mr. Atul Krishna.
Goswami, Mr. Tulsi Chandra.
Gupta, Mr. Jogesh Chandra.
Kumar, Mr. Atul Chandra.
Maiti, Mr. Nikunja Behari
Maitra, Mr. Surendra Mohan.
Majumdar, Mrs. Hemaprova.
Mukherji, Dr. Sharat Chandra.
Mullick, Srijut Ashutosh.
Roy, Mr. Charu Chandra.
Roy, Mr. Kamakrishna.
Roy, Mr. Kishori Pati.
Roy, Mr. Manmatha Nath.
Sanyal, Dr. Kalinakshe.
Sanyal, Mr. Sasanka Sekhar.
Sen, Babu Nagendra Nath.
Sinha, Srijut Manindra Bhusan.
Sur, Mr. Narendra Kumar.
Thakur, Mr. Pramatha Ranjan.
Wahed Rahman, Maulvi.

NOES—103.

Abdul Aziz, Maulana Md.
Abdul Hafiz, Mr. Mirza.
Abdul Hafiz, Mr. Mia.
Abdul Hakim, Maulvi.
Abdul Hakim Vikrampuri, Maulvi Md.
Abdul Hamid, Mr. A. M.
Abdul Jabbar, Maulvi.
Abdul Jabbar Patwari, Mr. Md.
Abdul Kader, Mr., alias Lal Miah.
Abdul Karim, Mr.
Abdul Latif Biswas, Maulvi.
Abdul Majid, Mr. Syed.
Abdul Wahed, Maulvi.
Abdulla-al Mahmood, Mr.
Abdur Rahman, Khan Bahadur A. F. M.
Abdur Rahman Siddiqui, Mr.
Abdur Rashid Mahmood, Mr.
Abdur Rasheed, Maulvi Md.
Abdur Rauf, Khan Sahib Maulvi S.
Abdur Razzak, Maulvi.
Abu Hossain Sarkar, Maulvi.
Abul Fazl, Mr. Md.
Abul Hosain Ahmed, Mr.
Abul Qasem, Maulvi.
Ahmed Ali Enayetpuri, Khan Bahadur Maulana.
Ahmed Ali Mridha, Maulvi.
Ahmed Hossain, Mr.
Alfazeddin Ahmed, Khan Bahadur Maulvi.
Aminullah, Khan Sahib Maulvi.
Ashrafali, Mr. M.
Asimuddin Ahmad, Mr.
Asiruddin Ahmed, Mr.
Azhar Ali, Maulvi.
Birkmyre, Sir Henry, Bart.
Blomfield, Mr. L. M.
Brown, Mr. A. C.
Chippendale, Mr. J. W.
Clark, Mr. I.A.
Das, Mr. Anukul Chandra.
Das, Rai Sahib Kirit Bhusan.
Edhar, Mr. Upendranath.
Emdadul Haque, Kazi.
Fazlul Huq, the Hon'ble Mr. A. K.
Fazlul Quadir, Khan Bahadur Maulvi.
French, Mr. F. H.
Giasuddin Ahmed, Mr
Griffiths, Mr. C.
Gupta, Mr. J. N.
Gurung, Mr. Damber Singh.
Habibullah, the Hon'ble Nawab Bahadur K., of Dacca.
Hafizuddin Chowdhury, Maulvi
Hamiduddin Ahmad, Khan Sahib.
Hasan Ali Chowdhury, Mr. Syed.
Hasanuzzaman, Maulvi Md.
Hatemally Jafferdar, Khan Sahib Maulvi.
Hawkings, Mr R. J.
Hendry, Mr. David.
Jalaluddin Ahmad, Khan Bahadur Maulvi.
Jasimuddin Ahmed, Mr.
Jonab Ali Majumdar, Maulvi.
Kabiruddin Khan, Khan Bahadur Maulvi.
Kazem Ali Mirza, Sahibzada Kawas Jah Syed.
Kennedy, Mr. I. G.
Mafizuddin Ahmed, Dr.
Mafizuddin Ahmed, Maulvi.
Mahtabuddin Ahmed, Khan Bahadur Maulvi.
Mandal, Mr. Birat Chandra.
Mandal, Mr. Jogat Chandra.
Maniruddin Akhand, Maulvi.
Maqbul Hossain, Mr.
Marindin, Mr. F. J.
Miftar, Mr. C.
Moolem Ali Mollah, Maulvi.
Muhammad Afzal, Khan Sahib Maulvi Syed.
Muhammad Ishaque, Maulvi.
Muhammad Israil, Maulvi.
Muhammad Siddiqua Khan Bahadur Dr. Syed.
Muhammad Sulaiman, Khan Sahib Maulvi.
Mullick, the Hon'ble Mr. Mahendra Behary.
Mustagaswal Haque, Mr. Syed.
Nandy, the Hon'ble Maharaja Srischandra, Cassimbazar.
Nasrullah, Nawabzada K.
Nazimuddin, the Hon'ble Khwaja Sir, K.C.I.E
Raikut, the Hon'ble Mr. Prasanna Deb.
Ramizuddin Ahmed, Mr.
Razaur Rahman Khan, Mr.
Ray, Mr. Fatiram.
Sadaruddin Ahmed, Mr.
Safiuddin Ahmed, Haji.
Salim, Mr. S. A.
Sanaullah, Dr.
Sarkar, Babu Madhusudan.
Sarker, the Hon'ble Mr. Nalini Ranjan.
Sarjai Islam, Mr.
Shahabuddin, Mr. Khwaja, C. B. E.
Shahedali, Mr.
Shamsuddin Ahmed, M.
Shamsuddin Ahmed Khandkar, Mr.
Sirdar, Babu Litta Munda.
Suhrawardy, the Hon'ble Mr. H. S.
Tamizuddin Khan, The Hon'ble Mr.
Tofel Ahmed Choudhury, Maulvi Haji.
Walker, Mr. W. A. M.

The Ayes being 38 and the Noes 103, the motion was lost.

The motion of Mr. Surendra Nath Biswas that in clause 25 (2), lines 4 and 5, the following words be omitted, namely:—

"with imprisonment which may extend to one year or",

was then put and lost.

The motion of Mr. Dhirendra Nath Datta that in clause 25 (2), line 5, for the words "one year" the words "three months" be substituted, was then put and lost.

(After Mr. Speaker had declared that the motion was lost, Dr. Nalinaksha Sanyal spoke as follows.)

Dr. NALINAKSHA SANYAL: Division, Sir.

Mr. SPEAKER: Dr. Sanyal, you are rather late inasmuch as I have declared the result.

Dr. NALINAKSHA SANYAL: Sir, I asked for a division immediately before you announced the result finally.

Mr. SPEAKER: No, I declared the result finally because there was no claim for a division However, you can call for a division on the next motion that I am going to put.

Dr. NALINAKSHA SANYAL: Sir, I rose in my seat immediately you announced the result in the first instance, *i.e.*, before you confirmed the result. You did not look to this side of the House.

Mr. SPEAKER: Yes, I am sorry I did not look to your side. But you will understand my difficulty. Surely, I cannot go back on the final announcement of the result

The motion of Mr Dhirendra Nath Datta that in clause 25 (2), line 5, for the words "one thousand" the words "one-hundred" be substituted, was then put and lost

Mr. SPEAKER: Motion No. 795 does not arise, and so I shall not put it to vote.

That disposes of all the amendments under clause 25.

Rai HARENDRA NATH CHAUDHURI: Sir, is the Hon'ble Mr. Suhrawardy going to move his new amendments Nos. 36 and 37?

Mr. SPEAKER: Mr Suhrawardy, are you moving your new amendments Nos. 36 and 37.

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, Sir.

Clause 26.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that in the proviso to clause 26 (*1*), line 2, the words and figure "except section 12" be omitted.

The motion was put and agreed to.

The Hon'ble Mr. H. S. SUHRAWARDY: I beg to move that after clause 26 (*1*) the following be inserted, namely—

"(*1a*) The provisions of this Act shall apply and be deemed always to have applied and shall continue to apply as respects any debt due to a lender or money-lender in respect of loans advanced by him before the commencement of this Act or in respect of interest on such loans or of the benefit of any agreement made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee, and except where the context otherwise requires, references in this Act to a lender or money-lender shall accordingly be construed as including any such assignee as aforesaid."

Sir, the purpose of this amendment is to prevent assignors getting the benefit of any exemption which an assignee may have under this Act.

Now, for instance—I am giving an example—suppose there is a loan office which comes within the purview of this Act and which cannot charge, under section 28, interest at more than 8 or 10 per cent and which assigns its loans to a scheduled bank which is exempted from the provisions of this Act. Now, such a loan assigned to a scheduled bank will be covered by this amendment which I am putting in, and such a loan will not be exempted and will be hit by this Act. The purpose of this amendment, therefore, is that a mere assignment will not protect a loan which otherwise would have come under the provisions of this Act.

Rai HARENDRA NATH CHAUDHURI: Sir, I beg to move that for sub-clause (*1*) of clause 26, the following be substituted, namely:—

"Subject as hereinafter provided the provisions of this Act relating to a lender or money-lender shall be deemed to apply *mutatis mutandis* to the assignee of a lender or money-lender in respect of loans advanced whether before or after the commencement of this Act or of interests on such loans or of the benefit of any agreement made or security taken in respect of any such loan or interest."

Sir, before I say anything in respect of my own motion, I would like to oppose the amendment that has just been moved by the Hon'ble

Mr. Suhrawardy. Mr. Suhrawardy has professed too much regard for the British Act, and, so far as clause 25 was concerned, the only stand that he took was on the phraseology of the relevant clause of the British Act. He did not come forward to explain the reasons underlying that provision, nor did he take the trouble to state why it was necessary to import that clause of the British Act in its entirety into the Bill before us. But here we find a departure. He was not prepared to make any departure from the provisions of the British Act so far as the previous section was concerned. But in this case, Sir, he is going to make a serious departure. I would refer the Hon'ble Mr. Suhrawardy to his model so far as clause 26 is concerned. Clause 26 of the present Bill is a replica of section 17 of the English Money-Lenders Act of 1927. If you turn to that section, you will see that that section applies only to loans made after the commencement of that Act, and the proviso that is also there in that section of the English Act also speaks of loans made after the commencement of the Act. I, therefore, see no justification on the score of analogy for adopting quite a different attitude in enacting the Bengal Money-Lenders Bill in respect of loans advanced before the commencement of the Act.

Now, amendment No. 37 has been moved by the Hon'ble Mr. Suhrawardy apparently to give a retrospective effect to this section. But if that be his whole purpose, then, Sir, we see no justification for such a cumbrous amendment because after all that has been provided in this Bill, nobody can escape by way of assignment. Now, how can there be any serious possibility of an assignment in respect of a loan advanced after the commencement of the Act in contravention of the provisions of this Act? The question of avoidance of the provisions of this Act by way of assignment may arise only in respect of loans advanced before the commencement of this Act; otherwise, I do not understand the necessity of giving retrospective effect to this provision. Now, Sir, if the Hon'ble Mr. Suhrawardy chooses to give retrospective effect to this provision, then, I think, the better way of achieving that object will be not to swear by the phraseology of the British Act, but to state the whole provision in much simpler terms. I have attempted in my draft to simplify the provision and I think my amendment will achieve the object better. It will make any escape from the provisions of this Act by way of assignment impossible. It will make all the provisions of the Bill applicable to the assignee as well as to the assignor money-lender and therefore we need not go by the phraseology of the English Act. It has got to be admitted that the phraseology of the English Act is much too cumbrous. Why must we in this country, where we have to legislate in foreign language, adopt the exact terms of a foreign statute? This I cannot understand. In this country where we have to legislate in a foreign tongue, our language should be as simple as possible and there should be no vagueness and no circumlocution about

it. In that view, Sir, I suggest that my amendment should be accepted. To sum up, clauses 26 (*1*) and 26 (*1a*); I mean the amendment that has been moved by the Hon'ble Mr. Suhrawardy, taken together say that the provisions of this Act will apply to assignment of debts in respect of loans advanced whether before or after the commencement of this Act or of the benefit of any agreement made or security taken in respect of any such debt. If that be the case, then that purpose, and even more, will be achieved by the terms of my amendment. For, I have framed my amendment in the most general terms, viz., that except for the provisions made hereinafter in this Act all the provisions of this Act relating to a lender or money-lender will apply *mutatis mutandis* to the assignee of a lender or money-lender. Thus, if there be no distinction between the original money-lender and the assignee, then there can be no loophole for escaping from the provisions of this Act. I request the Hon'ble Mr. Suhrawardy to take this into consideration, and I hope he will be pleased to accept the simpler draft of wider scope that I have suggested.

The Hon'ble Mr. H. S. SUHRAWARDY: The suggestion of the honourable member, it seems to me, is that instead of the cumbersome drafts to sections 26(*1*) and 26(*1a*) a simpler draft may be accepted and that he is moving his amendment in the interest of drafting rather than introducing any new principle one way or the other. Now, frankly speaking, it will be a very difficult proposition to examine all the various possibilities of sections 26(*1*) and 26(*1a*) and find out whether Mr. Chaudhuri's draft covers all the possibilities envisaged in this two sections——

Rai HARENDRA NATH CHAUDHURI: The draft is put in the widest form.

The Hon'ble Mr. H. S. SUHRAWARDY: Rai Harendra Nath Chaudhuri might think that his is the best and the widest draft. It may be or it may not be so. Sections 26(*1*) and 26(*1a*) are equally wide and rather than land ourselves into difficulties and concealed pitfalls which may not be apparent on an examination of the draft, I would prefer the English draft, I mean the draft as it is in the English Money-Lenders Act, thereby getting the benefit of a better drafting than that of ours——

Dr. NALINAKSHA SANYAL: It will give retrospective application.

The Hon'ble Mr. H. S. SUHRAWARDY: This does not give retrospective application by itself. It is not section 26(*1a*) that has

given retrospective application. Retrospective application has been given by two sections, namely, (*1*) by the definition of the term "suit" in section 2 and (*2*) by section 34. It is these two sections that give retrospective application, because they are operative sections——

Dr. NALINAKSHA SANYAL: Here the question is of assignment.

The Hon'ble Mr. H. S. SUHRAWARDY: If the original loan is hit by the retrospective application which is governed by sections 2(*19*) and 34, then the assignment will also be hit. If the original loan is not hit by the retrospective application, then the assignment will also not be hit. Then section 26(*1a*) does not introduce any new principle at all. It merely reiterates the principle introduced by these two sections and extends it to the assignee——

Rai HARENDRA NATH CHAUDHURI: It covers previous assignments.

Dr. NALINAKSHA SANYAL: Assignments before the commencement of the Act.

Rai HARENDRA NATH CHAUDHURI: This is not a case of loan, it is a case of assignment.

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, because we have had individuals or organisations assigning their loans to bodies that will now be protected.

Dr. NALINAKSHA SANYAL: Before the commencement of the Act?

The Hon'ble Mr. H. S. SUHRAWARDY: If they are hit by the retrospective application, their assignees will also be hit by the application.

Rai HARENDRA NATH CHAUDHURI: Here you are departing clearly from the principle.

The Hon'ble Mr. H. S. SUHRAWARDY: It is clear that the question of keeping and submission of accounts cannot operate in respect of past accounts.

Rai HARENDRA NATH CHAUDHURI: Certainly it does.

The Hon'ble Mr. H. S. SUHRAWARDY: How could they be kept in prescribed forms when there were no prescribed forms? There was no such Act and no such rules.

Rai HARENDRA NATH CHAUDHURI: You say the provisions of this Act without qualifying the word "provisions".

The Hon'ble Mr. H. S. SUHRAWARDY: I leave it really to the commonsense of any court. I need not discuss this matter further. I think that where the provisions of this Act cannot in commonsense, apply to any previous transaction, the court cannot insist that they should be applied. Let me give an example. There was nothing before this Act came into operation which could compel a money-lender to give accounts to his debtor or to keep his accounts in the prescribed form. It is quite clear that as no such provision existed, no court can hold that, because section 26(*1a*) says that the provisions of this Act shall always be deemed to have applied, the money-lender should also have conformed to the requirements of a section which was not in existence before. Where the Court will hold that the provisions of this Act shall apply, it can only mean such provisions of this Act which can possibly be made to apply taking the commonsense and the legal view of the situation into consideration, and not in the case of any previous transaction, which is an impossibility. I think my friends on the other side know very well that when there is a case of impossibility or supervening impossibility, the courts have always held that the provisions of an Act cannot apply.

The motion of Rai Harendra Nath Chaudhuri that for sub-clause (*1*) of clause 26 the following be substituted, namely:—

"Subject as hereinafter provided the provisions of this Act relating to a lender or money-lender shall be deemed to apply *mutatis mutandis* to the assignee of a lender or money-lender in respect of loans advanced whether before or after the commencement of this Act or of interests on such loans or of the benefit of any agreement made or security taken in respect of any such loan or interest", was then put and lost.

The motion of the Hon'ble Mr. H. S. Suhrawardy that after clause 26(*1*) the following be inserted, namely:—

"(*1a*) The provisions of this Act shall apply and be deemed always to have applied and shall continue to apply as respects any debt due to a lender or money-lender in respect of loans advanced by him before the commencement of this Act or in respect of interest on such loans or of the benefit of any agreement made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee, and except where the context otherwise requires, references

in this Act to a lender or money-lender shall accordingly be construed as including any such assignee as aforesaid", was then put and agreed to.

Mr. SPEAKER: That disposes of all the amendments to clause 26. We will now have to take up clause 28.

Mr. JOGESH CHANDRA GUPTA: I think that Government may require time to determine their attitude in respect of this clause. So, I propose that the House may now be adjourned.

The Hon'ble Mr. H. S. SUHRAWARDY: I also think that some time is necessary and am in favour of adjourning the House. If you will please——

Adjournment.

The House was then adjourned till 4-45 p.m. on Thursday, the 15th June, 1939, in the Assembly House, Calcutta.

Proceedings of the Bengal Legislative Assembly assembled under the provisions of the Government of India Act, 1935.

THE ASSEMBLY met in the Assembly House, Calcutta, on Thursday, the 15th June, 1939, at 4-45 p.m.

Present:

Mr. Speaker (the Hon'ble Khan Bahadur M. AZIZUL HAQUE, C.I.E.) in the Chair, 8 Hon'ble Ministers and 191 members.

STARRED QUESTIONS

(to which oral answers were given)

Appointments in Industries Department.

*510. **Dr. MAFIZUDDIN AHMED:** Will the Hon'ble Minister in charge of the Industries Department be pleased to state—

(*a*) who have been appointed as Intelligence Officers in the Industries Department;

(*b*) whether the posts were advertised;

(*c*) who has been, or is going to be, appointed to the post of the Engineer Inspector; and

(*d*) whether the claims of the qualified Muslims in the department have been considered for the appointment?

MINISTER in charge of the INDUSTRIES DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) Mr. Jnanendra Nath Roy and Mr. Debendra Nath Ghosh.

(*b*) No. The selection was made by a committee of statistical experts including the Director General of Commercial Intelligence and Statistics, India, and Prof. Mahalanobis of the Statistical Laboratory.

(*c*) There is no such post.

(*d*) Does not arise.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if there were any Muslim applicants for these posts?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I want notice. I cannot say offhand.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if he is aware of any Muslims qualified for these posts?

Mr. SPEAKER: That question does not arise.

Khan Bahadur MOHAMMED ALI: Will the Hon'ble Minister be pleased to state if the posts were not advertised how would the Muslim candidates apply for the same?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I shall look into the matter.

Dr. NALINAKSHA SANYAL: Is it a fact that the minimum qualifications these two posts, namely, Intelligence Officers, were a high degree of knowledge of statistical work.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: May be.

Muhammadan Marriage Registrar of Durgapur, Mymensingh.

*511. **Khan Bahadur Maulvi KABIRUDDIN KHAN:** (*a*) Will the Hon'ble Minister in charge of the Education (Registration) Department be pleased to state—

(*i*) for how many days has the Muhammadan Marriage Registrar of Durgapur (Mymensingh) been absent from his official duties since November, 1938;

(*ii*) how many times did the said Muhammadan Marriage Registrar enjoy leave during the period; and

(*iii*) what steps, if any, were taken to remove inconvenience to the public by such frequency of absence?

(*b*) If the answer to (*a*) (*iii*) is in the negative, will the Hon'ble Minister be pleased to state what steps, if any, do the Government propose to take to stop such frequent absences from the station?

MINISTER in charge of the EDUCATION (REGISTRATION) DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): The information is not readily available. A report has been called for from the Registrar of the district. Necessary action to prevent inconvenience to the public will be taken on receipt of the report.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Labour strikes in Bengal.

245. Dr. SURESH CHANDRA BANERJEE: Will the Hon'ble Minister in charge of the Labour Department be pleased to state—

(*a*) how many labour strikes took place in Bengal during the year 1938-39;

(*b*) what were their causes;

(*c*) in how many of them were the Government asked to intervene; and

(*d*) in how many of them were Courts of Enquiry or Boards of Conciliation appointed and with what result?

MINISTER in charge of the LABOUR DEPARTMENT (the Hon'ble Mr. H. S. Suhrawardy): (*a*) The figures for the financial year 1938-39 are not available. The number of labour strikes during the calendar year 1938 is 158.

(*b*) According to the classification of causes adopted by Government these strikes are distributed as follows:—

Pay	...	79
Personnel	.	42
Leave and hour	...	12
Miscellaneous	.	25

(*c*) In three cases.

(*d*) Boards of Conciliation were appointed in two cases; the reports of the Board have been published in the *Calcutta Gazette*.

Executive powers of the Deputy Director of Industries, Bengal.

246. Dr. MAFIZUDDIN AHMED: (*a*) Will the Hon'ble Minister in charge of the Industries Department be pleased to state—

(*i*) whether it is a fact that the present Deputy Director of Industries is a Muslim; and

(*ii*) that all executive powers used to be exercised by that officer have been taken away by the present Director of Industries?

(*b*) Is it a fact that the present Director of Industries was once the Deputy Director of Industries and, as such, he used to exercise such executive powers?

(*c*) If the answers to (*a*) (*ii*) and (*b*) are in the affirmative, what are the reasons for the change?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) (*i*) Yes.

(*ii*) No. The Deputy Director, however, used to assist the Director of Industries in the supervision of his office prior to the creation of the post of the Personal Assistant to the Director. Since the creation of the post of the Personal Assistant, the Deputy Director has been relieved of his duties in connection with the management and supervision of the office which are properly the functions of the Personal Assistant.

(*b*) The present Director was the Deputy Director before the creation of the post of Personal Assistant and, as such, assisted the Director in the supervision of his office. He did not exercise any executive powers that have been withdrawn from the present Deputy Director.

(*c*) Does not arise.

Proposed appointment of three Inspectors for Demonstration Parties under the Director of Industries, Bengal.

247. Dr. MAFIZUDDIN AHMED: Will the Hon'ble Minister in charge of the Industries Department be pleased to state—

(*a*) whether it is a fact that the Government have decided to appoint three Inspectors for Demonstration Parties from the staff of the "Detenu Scheme";

(*b*) whether it is a fact that there is not a single Muslim in the Detenu Scheme; and

(*c*) whether experienced Muslim hands are available for such posts from the "Unemployment Scheme"?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) No.

(*b*) No; there are 3 Muslims under the Detenu Training and Settling-up Scheme.

(*c*) Does not arise.

Post of Officer in charge of the Industrial Museum under the Director of Industries, Bengal.

248. Dr. MAFIZUDDIN AHMED: (*a*) Will the Hon'ble Minister in charge of the Industries Department be pleased to state whether it is a fact that the Government has sanctioned such a post as the "Officer in charge of the Industrial Museum" on Rs. 500—700 a month?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state—

(*i*) whether the post has been advertised and applications have been invited;

(*ii*) whether any minimum qualification has been fixed for the post; and

(*iii*) whether the selection will be done by the Public Service Commission?

(*c*) Will the Hon'ble Minister be pleased to state—

(*i*) the name of the officer who is working at present in that post;

(*ii*) his educational qualification; and

(*iii*) the salary he is drawing for the substantive post he is holding?

(*d*) Is it a fact that two Hindu M.A.'s are being trained in various sections of the department?

(*e*) If the answer to (*d*) is in the affirmative, will the Hon'ble Minister be pleased to state whether there is likelihood of one of them to be appointed to the said post of the Officer in charge of the Industrial Museum?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: (*a*) The post of Officer in charge of Industrial Museum has been sanctioned on a pay not exceeding Rs. 300.

(*b*) (*i*) and (*iii*) No.

(*ii*) No minimum qualification has been fixed. The qualifications essential for the post are considerable business experience and intimate knowledge of the industrial condition of the province and outside.

(*c*) (*i*) Babu Anadi Mukherjee, Marketing and Publicity Officer of the Industries Department, is carrying on the duties of the Officer in charge of Industrial Museum in addition to his own duties.

(*ii*) He read up to I.A. but he possesses a widespread experience in the business and industrial lines having been connected with a large number of commercial and industrial firms in different provinces in India.

(*iii*) Rs. 150.

(*d*) No.

(*e*) Does not arise.

Mr. ATUL KRISHNA GHOSE: With reference to answer (*b*) (*iii*), will the Hon'ble Minister be pleased to state what was the reason for not advertising the post?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: According to Government orders, only temporary appointments were to be made and all permanent appointments were stopped till the embargo by Government was removed. Therefore, this was a sort of working arrangement. As soon as the embargo by Government is removed, it would be advertised and applications would be called for.

Mr. ATUL KRISHNA GHOSE: What was the reason for not consulting the Public Service Commission as well?

Mr. SPEAKER: That has been answered.

Dr. NALINAKSHA SANYAL: With reference to the answer just given, will the Hon'ble Minister be pleased to state the date when this working arrangement was made and the date when this so-called embargo on new appointments came into effect?

Khan Bahadur MOHAMMED ALI: Why so-called?

Dr. NALINAKSHA SANYAL: Because it is not really an embargo.

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I want notice.

Dr. NALINAKSHA SANYAL: Is it a fact that this working arrangement was made long before the stoppage of new recruitment was notified?

The Hon'ble Nawab Khwaja HABIBULLAH Bahadur, of Dacca: I could not say offhand.

Mr. SPEAKER: I understand that members want notice and therefore these pending questions will be taken up to-morrow. A circular to that effect would also be issued.

Dr. NALINAKSHA SANYAL: Unless the numbers of questions are given, it would be absolutely impossible to follow either the question or the answer.

Mr. SPEAKER: Yes, the numbers would be mentioned in the circular.

Adjournment motion.

Mr. NIHARENDU DUTTA MAZUMDAR: May I move my adjournment motion for which I have got your consent?

Mr. SPEAKER: You will have to satisfy me first that it is in order.

(Copy was then handed to the Speaker.)

Mr. SPEAKER: This is only an individual affair, but I am quite prepared to hear you as to how you consider that this motion is in order and what is the principle involved behind it. I may inform you, Mr. Mazumdar, that I have looked up the precedents, and I find that individual strikes are not subject-matters of an adjournment motion unless there is a specific issue in it.

Mr. NIHARENDU DUTTA MAZUMDAR: It is not merely a question of an individual strike, but it is a question of the police and the executive authorities behaving in a particular manner which involves the civic liberties of the people of this province. The strike is merely an occasion of that particular form of behaviour, and this incident constitutes a definite matter of urgent public importance. Only some time ago this House made a grant for the purpose of tear gas training, and we find the application of a tear gas demonstration for the first time in a manner and under circumstances which give rise to grave concern in the public mind with regard to the safety of our civil liberties. Therefore, Sir, this is a matter which is not a question of an individual strike, although the strike certainly gave rise to the occasion. It is a matter which involves the policy of the executive authorities in the use of the police and in resorting to methods which violate the rights of the workers to engage in a particular fashion to settle their trade disputes. These are the points of principle involved. Here in this particular case you will find, Sir, from the statement of the matter that it was merely a question of trade dispute, and the

workers and the employers inside the factory are perfectly entitled to continue their work and continue their negotiations and to settle by negotiations or by strike any disputes that may arise; and strikes, Sir, have always been recognised as a constitutional weapon.

Mr. SPEAKER: I quite understand your point, but you have brought in too many issues in this motion. You should modify it. I can understand the matter if you limit it to the question as to whether the police have the right to break up a strike and forcibly eject the workers by using tear gas, for this might involve some principle.

The Hon'ble Khwaja Sir NAZIMUDDIN: First of all, Sir, it has to be found out whether tear gas was actually used or not.

Mr. NIHARENDU DUTTA MAZUMDAR: Sir, we are not going into the facts. I submit that here in this particular case what I propose to discuss is the situation arising out of certain things having happened and the use and demonstration of tear gas equipments, police violence and other things—and all these form different parts in the same chain of events which give rise to the particular situation involving the interference with the civil liberties of the people, and tear gas is certainly a very prominent feature in this affair. Therefore, Sir, it is not, I submit, too many issues mixed up together, but a number of things which have taken place in the course of the same event which has given rise to this extraordinarily grave situation which should be the subject-matter of discussion by this House.

Mr. SPEAKER: May I have the official version of the matter in order to verify the correctness of the statement made in the adjournment motion?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, no tear gas was used. The gas operators were located at a convenient place and were not in the hands of the police. There was no sort of demonstration, and the people went out quite peaceably. After all, what was the situation created there? I can understand that there might have been an opportunity to bring in this motion if there had been any use of the tear gas. But my point is that tear gas was not used.

Mr. NIHARENDU DUTTA MAZUMDAR: The use of the tear gas may take place in very many ways.

Mr. SPEAKER: Can you satisfy me, Mr. Mazumdar, as to whether tear gas was actually used?

Mr. NIHARENDU DUTTA MAZUMDAR: Tear gas equipments were transported into the factory premises and demonstrated there in order to intimidate and terrorise the workers. And that is certainly a kind of use of tear gas. I may use my revolver by actually holding it in the face of somebody even without firing. It is futile here to take the plea that tear gas was not used. Certainly the tear gas equipments were transported there, and the workers were terrorised and ejected from the factory. That certainly was a use of the tear gas equipment there. I have stated in the motion that the police armed with tear gas entered into the factory and did certain things.

Mr. SPEAKER: If that is your statement, I must say that it is very carefully drafted.

Mr. NIHARENDU DUTTA MAZUMDAR: This is a situation of a unique type. It involves a great principle and displays a certain war-time Fascist method.

Mr. SPEAKER: I am not sure in my own mind as to whether this is in order; yet I would not rule it out to-day. In the meantime I shall look into the matter and should like to discuss it with Mr. Dutta Mazumdar as to whether the motion in this particular form is in order. And then I will give my final decision to-morrow. And if I hold it to be in order, I shall fix a time to-morrow.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, will you kindly hear us as well before you give your final decision?

Mr. SPEAKER: Yes, I will send for you also to discuss with me to-morrow.

GOVERNMENT BILL.

The Bengal Money-lenders Bill, 1939.

Mr. SPEAKER: Shall we begin section 28 or section 29?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I must state before the House that I do not propose to move to-day the amendments to section 28 with regard to which I gave notice, so that the House may not be caught unawares. I am pointing this out lest I am dropping any particular motion which they may have relied upon, and we may be faced with the kind of situation which arose over commercial loans. So far as my amendment Nos. 801-831 to section 28 (*1*) (*a*) is concerned, I am not moving it to-day.

Dr. NALINAKSHA SANYAL: Mr. Speaker, Sir, you have been pleased to rule that Government motion relating to a certain section should be taken up first, and if Government desire to withhold discussion on it for reasons best known to themselves, it is not fair that your ruling should be changed.

Mr. SPEAKER: I quite understand the position, but we are concerned with clauses 28 and 29, and 31 and 32.

Rai HARENDRA NATH CHAUDHURI: Of these, clause 28 is the main section.

Dr. NALINAKSHA SANYAL: And clause 29 is mixed up with clause 28. Are we to understand that Government have made up their mind regarding clause 29?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I have made up my mind regarding clause 29 excepting so far that there is an amendment to delete the words "but subject to the provisions of clause (*a*) of sub-section (*1*) of section 33".

Mr. SPEAKER: But that is a drafting matter

Dr. NALINAKSHA SANYAL: It is not, Sir. It is a new material.

The Hon'ble Mr. H. S. SUHRAWARDY: I think it would be much better not to take up section 29 as also section 33 to-day, because it will very much depend upon the form which sub-section (*1*) of section 28 takes

Rai HARENDRA NATH CHAUDHURI: The form which you propose to give it?

The Hon'ble Mr. H. S. SUHRAWARDY: It it takes the form which I propose to give it, then of course it is proper that it should be deleted.

Mr. SPEAKER: Section 32 is not connected with it?

The Hon'ble Mr. H. S. SUHRAWARDY: No, Sir, it is not connected with it.

Mr. SPEAKER: Then you propose to move that section 31 be deleted and then take up from sections 32 and 33 onwards, and then you propose to come to sections 28 and 29?

The Hon'ble Mr. H. S. SUHRAWARDY: *Yes, Sir.*

Dr. NALINAKSHA SANYAL: Sir, you have already given the House a definite assurance that, from the 14th June onwards we should take up from clause 28 onwards.

Mr. SPEAKER: Yes, but don't you think that we may take up other sections?

Dr. NALINAKSHA SANYAL: Sir, we have not yet applied our minds to section 31. If Government propose to take time to consider, then it is only fair that we, too, should be given time to consider those sections to which we have not yet applied our minds.

The Hon'ble Mr. H. S. SUHRAWARDY: Do Dr. Sanyal and Mr. J. C. Gupta and others of his group seriously suggest that they have not yet applied their minds to section 31, as to whether it should be deleted or not?

Rai HARENDRA NATH CHAUDHURI: No, we have not.

Mr. SYED JALALUDDIN HASHEMY: Sir, we are prepared with section 28 only.

Dr. NALINAKSHA SANYAL: May I enquire of the Hon'ble Mr. Suhrawardy if he believes that section 31 can be deleted, which involves the question of computation of interest on loans in kind, and that it can be taken up unless the question of limitation as to amount and rate of interest is settled first?

Rai HARENDRA NATH CHAUDHURI: And without being definite as regards interest!

Dr. NALINAKSHA SANYAL: Sir, section 31 relates to the computation of rate of interest on loans in kind. Section 28 lays down one uniform rate both for loans in kind and for loans in cash. That being the position, unless section 28 is taken up, section 31 cannot be taken up.

The Hon'ble Mr. H. S. SUHRAWARDY: I do now feel, Sir, that Dr. Sanyal has not applied his mind to section 31; otherwise he would not have spoken like that. If Dr. Sanyal will be good enough to look at the section, he will find that it does not refer to the rate of interest. Section 31 will stand whatever may be the rate of interest fixed under section 28. (Dr. NALINAKSHA SANYAL: I said "computation of interest.")

The whole question is with regard to turning it into money value. That will depend on certain circumstances as to what would be the monetary value of the loan, the monetary value of the paddy which may have been returned in lieu of interest, and how all that has got to fit in. Inasmuch as I find a great deal of difficulty with regard to the practical application of section 31, which is totally irrespective of the rate of interest which may be fixed under section 28, I am asking that it be deleted. I do not know what attitude Dr. Sanyal and his group are going to take up in the matter—whether they are in agreement with me that it should be deleted and whether they consider it to be a practical proposition.

Rai HARENDRA NATH CHAUDHURI: Sir, we have not applied our minds to section 31.

Mr. SPEAKER: In view of the fact that sections 28 and 29 are really contentious and there is a possibility of the whole matter being recast, I should like the House to consider whether we may not begin with section 31.

Mr. SASANKA SEKHAR SANYAL: No, Sir. Unless we sit down and apply our minds to it without the brain of the Hon'ble Mr. Suhrawardy, we cannot come to a decision.

Dr. NALINAKSHA SANYAL: Sir, it is regrettable that the Hon'ble Mr. Suhrawardy, while he thinks that other people have applied their minds in a manner in which application of mind, so far as he is concerned, is necessary or conducive, he does not give credit to other people as to the extent to which application of mind will reveal inconsistencies. Perhaps he does not know that the original section 28 contemplated rate of interest separately for loans in kind and for loans in money.

Mr. SPEAKER: May I take it that, for the time being, Mr. Suhrawardy, you are not going to move the Government amendment tabled on section 28?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I have an amendment which I can move on section 28.

Mr. SPEAKER: What is it?

Mr. JOGESH CHANDRA GUPTA: Sir, it would be a much more profitable use of time to attend the football match than to proceed with the Money-lenders Bill when Government is unprepared?

Mr. SPEAKER: *Unfortunately, I am not particularly interested* in football just now. (Laughter.)

I think we should begin with clause 28. Mr. Suhrawardy, will you please move your amendment No. 38 (new)?

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, Sir.

I beg to move that for clause 28(*1*)(*b*) the following be substituted, namely:—

"(*b*) on account of interest outstanding on the date up to which such liability is computed, a sum greater than the principal outstanding on such date."

This amendment is necessitated by the various amendments that have come from different parties in the House, in order to make it clear that it refers to the interest outstanding. Otherwise, there may be some sort of doubt in the mind of anybody interpreting this section, namely, that this interest refers to the interest that has been paid from the beginning of the loan. What is really meant here is that a decree for interest which may be passed should not be greater than the amount of principal outstanding on that date. It thus reaffirms the real principle of *damdupat*. I expect that the House will accept this amendment.

The motion of the Hon'ble Mr. H. S. Suhrawardy that for clause 28(*1*)(*b*) the following be substituted, namely:—

"(*b*) on account of interest outstanding on the date up to which such liability is computed, a sum greater than the principal oustanding on such date",

was then put and agreed to.

Mr. SPEAKER: Now, we shall take up amendment No. 798 of Mr. Birendra Kishore Ray Choudhury.

Dr. NALINAKSHA SANYAL: May I know, Sir, whether Government do not propose to move any other amendment to section 28?

Mr. SPEAKER: Not for the time being.

Dr. NALINAKSHA SANYAL: It is no question of "for the time being", but whether they want to move any other amendment to section 28 at all?

Rai HARENDRA NATH CHAUDHURI: Then the original programme is going to be upset?

Mr. SPEAKER: No. Government is only taking time to consider section 28 further.

Dr. NALINAKSHA SANYAL: Sir, you arranged that Government amendments to clause 28 should be moved first and disposed of and then we should take up the other amendments. There are a number of other amendments to section 28. We take it that Government is not going to move any other amendment to section 28.

The Hon'ble Mr. H. S. SUHRAWARDY: That will depend on the fate of sub-section (*1*) of section 28.

Rai HARENDRA NATH CHAUDHURI: Is the Hon'ble Mr. Suhrawardy going to move amendment No. 801 or not?

The Hon'ble Mr. H. S. SUHRAWARDY: I do not intend to move it to-day, because I want further time for consideration.

Mr. SASANKA SEKHAR SANYAL: If you want further time, then we too must have time for consideration.

The Hon'ble Mr. H. S. SUHRAWARDY: If you insist on that and want to drive me to the wall——

Rai HARENDRA NATH CHAUDHURI: No, no. We only want to postpone the discussion. We want an adjournment. If you want to take time yourself, then why compel others?

Mr. SPEAKER: Is it agreed that from to-morrow, in view of this discussion, we shall take up from section 31 onwards?

Rai HARENDRA NATH CHAUDHURI: No, Sir, from section 28 onwards.

Mr. SPEAKER: But Government wants time to consider section 28 further.

Rai HARENDRA NATH CHAUDHURI: I don't think that the Hon'ble Minister will be ready to-morrow either.

The Hon'ble Mr. H. S. SUHRAWARDY: No, Sir. To-morrow I shall be ready.

Mr. SPEAKER: I don't think you will. (Laughter.)

This reminds me of the famous words of Cowper, "My expectations every day beguiled." That has been my experience from the beginning of this session.

The Hon'ble Mr. H. S. SUHRAWARDY: Let there be a compromise. If we come to a decision about clause 28, we will take it up to-morrow, otherwise we will take up clauses 31 to 33.

Mr. SPEAKER: I think, it is much better to come to a decision to-day and stick to it. My suggestion is that let us begin from 31 to-morrow and finish.

Dr. NALINAKSHA SANYAL: But, Sir, 33 and 34 are dependent on 28.

The Hon'ble Mr. H. S. SUHRAWARDY: No Sir, 34 is dependent on 28 and not 33.

Mr. SPEAKER: Then we may leave out 28, 29 and 34 and begin from to-morrow with 31 till the end of the Bill, and after we have finished the rest, we will take up 28, 29 and 34.

Rai HARENDRA NATH CHAUDHURI: Let us take up 31 to 33 to-morrow and if Government in the mean time come to a decision about 28, then we will take up 28 on Monday.

The Hon'ble Mr. H. S. SUHRAWARDY: Monday is a holiday.

Rai HARENDRA NATH CHAUDHURI: Then, it may be taken up on Tuesday.

Mr. SPEAKER: I would like to know the view of the Hon'ble Minister in charge of Reforms and Constitution on this matter.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the arrangement which you have suggested is an excellent one, namely, that from to-morrow we take up from 31 to 33 and the rest of the Bill, except 28, 29 and 34, and after finishing everything, we will come back to 28, 29, and 34.

Mr. SPEAKER: Mr. Gupta, may I know if you agree to this arrangement?

Mr. JOGESH CHANDRA GUPTA: Let us leave out 28, 29 and 34 and take up 31 to 33 to-morrow; 34 we will have to leave out because it is dependent on 28. Then after finishing 28, we will do the rest. I think, that will be the best arrangement.

Mr. SPEAKER: Excepting 28, 29 and 34, we may finish the rest as they are more or less of an unimportant nature, dealing chefly with rules and other unimportant things.

Mr. JOGESH CHANDRA GUPTA: The difficulty is that after we decide upon 28, the rules will have little bearing because we shall have to frame rules in order——

Mr. SPEAKER: No, because if there is any consequential change relating to clauses 28, 29 and 34, and that can also be done afterwards. I am not putting any of the main sections now; so it will be open to the members to make any consequential change even afterwards. So, for the sake of convenience and for the sake of simplicity, let us leave out 28, 29 and 34 and finish the rest of the Bill from to-morrow.

Mr. SURENDRA NATH BISWAS: Sir, do you want to finish all the other sections to-morrow?

Mr. SPEAKER: To-morrow and the next day, if necessary. So my suggestion is this: let us postpone 28, 29 and 34 for the present; from to-morrow let us take up 31 to 33 and then 35, "inquiry for taking accounts and declaring the amount due"; then 36, "deposit in court of money due to lender," a very unimportant section; then 37, "entry of an amount in a bond etc. different to the amount actually lent to be an offence, payment of loan."; then 38, "penalty for molestation,"; then 39, "general provision regarding penalties." All these are consequential clauses and then we finish the rest.

Mr. JOGESH CHANDRA GUPTA: I expect that in the meantime Government will be ready with their drafting and redrafting of clauses 28, 29 and 34. But the other question remains that Monday is the day of the Ratha-jatra festival. Now, Sir, this

Assembly is moving very slowly. So, if you make a good start on the Ratha-jatra day, the car of the Assembly may also move a little faster!

The Hon'ble Mr. NALINI RANJAN SARKER: But the Ratha-jatra car moves very slowly!

Mr. SPEAKER: Then, it is decided that clauses 28, 29 and 34 are postponed for the present, and we take up from clause 31 onwards to-morrow and finish the rest. Then we come back to clauses 28, 29 and 34.

Adjournment.

The House was then adjourned till 4-45 p.m. on Friday, the 16th June, 1939, at the Assembly House, Calcutta.

Proceedings of the Bengal Legislative Assembly assembled under the provisions of the Government of India Act, 1935.

THE ASSEMBLY met in the Assembly House, Calcutta, on Friday, the 16th June, 1939, at 4-45 p.m.

Present:

Mr. Speaker (the Hon'ble Khan Bahadur M. AZIZUL HAQUE, C.I.E.) in the Chair, 8 Hon'ble Ministers and 196 members.

Oath or Affirmation.

The follwing member took his oath or affirmation of allegiance to the Crown:—

Mr. Syed Saheb Alam.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Grants to certain educational institutions in certain thanas in Khulna.

249. Babu NAGENDRA NATH SEN: Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing for the year 1937 in respect of each of these thanas—

(1) Dacope,
(2) Rampal, and
(3) Tarakhanda

of the Khulna district separately—

(*i*) the total population;
(*ii*) the number of Scheduled Castes people;
(*iii*) number of Muslims;
(*iv*) number of middle English schools;
(*v*) number of high English schools;
(*vi*) the grants-in-aid awarded to those schools respectively; and
(*vii*) the amounts spent by the Government, District Board and Local Board for the spread of education in those thanas respectively?

MINISTER in charge of the EDUCATION DEPARTMENT (the Hon'ble Mr. A. K. Fazlul Huq): A statement furnishing the particulars is laid on the table.

Statement referred to in the reply to unstarred question No. 249, showing particulars in regard to educational institutions in thanas Dacope, Rampal and Terakhada in the district of Khulna for the year 1937.

Name of thana.	Population.	Scheduled Castes people.	No. of Muslims.	No. of M. E. Schools	No. of H. E Schools.	Grant-in-aid paid to—						Total amount spent for the spread of education in these thanas by—		
						Middle English Schools.			High English Schools.					
						Government	District Board.	Local Board	Government	District Board.	Local Board.	Government	District Board.	Local Board.
						Rs		Rs.				Rs.		Rs.
Dacope ..	57,293	47,012	9,644	2	1	..	..	480	..	..	..	430	..	940
Rampal .	88,199	29,269	41,430	6	1	324	.	955	.	..	..	4,478	..	3,301
Terakhada ..	54,083	19,441	24,785	1	3	..	..	240	..	.	..	1,510	..	1,972
Total ..	199,575	95,722	75,859	9	5	324		1,675		.		6,418	..	6,213

Union Board Presidents' Conference in Tippera and award of rewards, etc.

*250. **Maulvi MD. HASANUZZAMAN:** (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware that the Union Board Presidents' Conference, Tippera, was held on the 1st April, 1939?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state the names of persons who have been rewarded showing the nature of work done by each of them?

(*c*) Will the Hon'ble Minister be pleased to lay on the table a statement showing for the years 1343 and 1344 B.S.—

(*i*) the names of all the "A" Class Union Boards (subdivision by subdivision and circle by circle) of the Tippera district; and

(*ii*) amount of money spent during the period for—

(1) public works, and

(2) any special works?

(*d*) Will the Hon'ble Minister be pleased to state on what principle new awards have been given?

(*e*) Will the Hon'ble Minister be pleased to state whether there is any circular laying down the principle on which rewards are to be made?

(*f*) If so, is the Hon'ble Minister considering the desirability of laying on the table a copy of the said circular?

MINISTER in charge of the LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Nawab Khwaja Habibullah Bahadur, of Dacca): (*a*) Yes.

(*b*) A list is laid on the Library table.

(*c*) The information is being collected but I am afraid it may not be possible to have the work of compilation completed before the end of the current session of the Assembly.

(*d*) to (*f*) The hon'ble member is referred to Government Orders No. 6624P., dated the 18th August, 1913, and No. 755-56P., dated the 18th March, 1921, and rule 121 of the Union Board Manual, Volume II, copies of which are laid on the Library table.

STARRED QUESTIONS

(to which oral answers were given)

Number of primary schools in Tippera district in 1938.

*486. **Mr. MAQBUL HOSAIN:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table

a statement showing, thana by thana, separately, in the district of *Tippera*—

(*i*) the number of primary schools up to 31st December, 1938;

(*ii*) the number of free primary schools already started; and

(*iii*) the number of such schools to be started under the free primary scheme?

(*b*) Will the Hon'ble Minister be pleased to state—

(*i*) what will be the minimum qualification of the teachers of the free primary schools; and

(*ii*) whether untrained teachers working in different schools will be allowed to serve in their respective posts?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) A statement is laid on the table.

(*b*) (*i*) The question is still under consideration of the District School Board. It has been proposed to fix Middle English pass or its equivalent as minimum qualification.

(*ii*) Yes, provided they pass a selection test.

Statement referred to in the reply to clause (a) of starred question No. 486, showing the number of primary schools in the district of Tippera.

Serial No.	Name of thana.	Number of primary schools up to 31st December, 1938.	Number of free primary schools already started.	Number of primary schools to be started under primary education scheme.
1	Comilla	150	10	50
1	Burichang	177	16	60
3	Debidwar	149	9	53
4	Laksham	211	16	86
5	Chouddagram	230	8	87
6	Chandina	185	4	89
7	Daudkandi	191	6	75
8	Muradnagar	185	12	79
9	Homna	199	7	86
10	Kasba	127	5	82
11	Banchharampur	171	14	55
12	Nabinagar	170	10	95
13	Brahmanbaria	139	11	92
14	Nasirnagar	154	14	90
15	Hajiganj	175	18	74
16	Kachua	171	20	77
17	Matlabganj	221	10	96
18	Faridganj	159	24	53
19	Chandpur	207	11	98

Mr. DHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to tell us if the existing schools as shown in column 2 enjoy the grant from the district board or any other public institution?

The Hon'ble Mr. A. K. FAZLUL HUQ: I must have notice.

Mr. SPEAKER: That question cannot be answered here. That can be done at the district board meeting.

Mr. DHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to tell us if the existing schools which enjoy grants from the district board will continue to enjoy them after the free primary school boards have been established?

Mr. SPEAKER: They cannot do it under the law.

Mr. DHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to tell us if the number of schools shown in column 5 is inclusive of the schools in column 4 or exclusive of them?

The Hon'ble Mr. A. K. FAZLUL HUQ: Column 5 gives the number to be aimed at under the scheme and column 4 is the one that gives the number of schools already started. The balance of course will have to be started. As regards the question itself, it generally will happen that the existing schools will be absorbed in the schools to be started unless for any particular reason a school is allowed to exist.

Mr. DHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to state if the education of the locality will not suffer if the number of schools is reduced to a very great extent?

Mr. SPEAKER: That is a question of opinion.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if the number of primary schools up to the 31st December, 1938, shown in column 3 would be added to the number shown in column 5 and the two schools will thereafter enjoy the grant from the Free Primary Education Board?

The Hon'ble Mr. A. K. FAZLUL HUQ: As a general proposition it is difficult for me to answer. What I have indicated is this, that the District School Boards will take two factors into consideration—the population test and the distance test. The idea is to give a

school to an average of 2,000 population, or within an area with a radius of one mile. In case there is hardship, communication is scanty or unsatisfactory, it may be necessary to have more schools. Conditions vary from one part of the province to another. I do not think I can give a general reply to the question now.

Dr. NALINAKSHA SANYAL: With regard to the specific reply, will the Hon'ble Minister be pleased to state whether in thana Comilla where 150 schools were in existence up to 31st December, 1938, the total number of schools hereafter would be 200, adding 50 to 150, or it will be reduced from 150 to 50?

Mr. SPEAKER: That is already answered. It will be reduced from 150 to 50.

The Hon'ble Mr. A. K. FAZLUL HUQ: As a matter of fact, the number 150 comprises many schools.

Dr. NALINAKSHA SANYAL: What are the names?

The Hon'ble Mr. A. K. FAZLUL HUQ: One hundred and fifty schools really do not function. Fifty schools are supposed to be sufficient. It may be necessary to increase this number where this number is unsatisfactory. Ordinarily, there will be a diminution on paper, but possibly there will not be.

Dr. NALINAKSHA SANYAL: Are we to understand then that after the introduction of the primary education scheme, the number of schools in the district will be reduced in the same manner as shown in column 5?

The Hon'ble Mr. A. K. FAZLUL HUQ: Not to that extent always. There will be some reduction.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Introduction of Bengal (Rural) Free Primary Education Act in Tippera.

230. Maulvi MD. HASANUZZAMAN: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether the Bengal (Rural) Free Primary Act is in force in the Tippera district?

(*b*) If so, will the Hon'ble Minister be pleased to lay on the table a statement showing the names of free primary schools established at Laksam and Chouddagram police-stations?

(*c*) Is it in the contemplation of Government to establish separate primary schools for girls?

(*d*) If so, will the Hon'ble Minister be pleased to state how will the cost of construction of girls' school building be met?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) Yes.

(*b*) A statement is laid on the table.

(*c*) and (*d*) The question is under consideration.

Statement referred to in the reply to clause (b) of unstarred question No. 230, showing names of free primary schools established in Laksam and Chouddagram police-stations, district Tippera.

Chouddagram.

(1) Chouddagram attached to High English School.
(2) Mayura attached to High English School.
(3) Miabazar attached to Middle English School.
(4) Kashimpur attached to Middle English School.
(5) Salakandi attached to Middle English School.
(6) Batisha attached to Middle English School.
(7) Payerkhola attached to Middle English School.
(8) Sondail attached to Middle English School.

Laksam.

(1) Bagmara attached to Junior Madrassah.
(2) Harischar attached to Middle English School.
(3) Haripur attached to Junior Madrassah.
(4) Chandipur attached to Junior Madrassah.
(5) Adinakipur attached to Middle English School.
(6) Natherpetua attached to Middle English School.
(7) Paschimgaon attached to High English School.
(8) Shaktali attached to Junior Madrassah.
(9) Sanicho.
(10) Burthi Chhota Sharifpur.
(11) Batabaria.

(12) Uttarbowla.

(13) Taherpur.

(14) Sahapur.

(15) Gaiorbhanga.

(16) Monoharpur.

Dr. NALINAKSHA SANYAL: With reference to the question of separating primary schools for girls from the primary schools for boys, the reply is that the question is under consideration. Will the Hon'ble Minister be pleased to state if Government have come to any decision generally with regard to the co-education of boys and girls in primary schools?

The Hon'ble Mr. A. K. FAZLUL HUQ: No decision has yet been arrived at. Personally, I would feel that there would be no objection to co-education of children up to the age of about 8 years. No decision has been arrived at, because it is a very complicated matter.

STARRED QUESTIONS

(to which oral answers were given)

Site for the free Board's primary schools in Mymensingh.

*492. **Mr. MONMOHAN DAS:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware—

(*i*) that at the time of selection of site for the free Board's primary schools in the district of Mymensingh, many areas thickly populated by the Scheduled Castes people have been excluded;

(*ii*) the local Scheduled Castes M.L.A. of the Mymensingh East Constituency submitted petitions to the President, District School Board, Subdivisional Inspector, and District Inspector of Schools on different dates and also to the Hon'ble Minister on the 3rd November, 1938, requesting them for the establishment of 17 primary schools in the Scheduled Castes areas of Mymensingh East;

(*iii*) that the Kishoreganj local Education Committee recommended to the District School Board to convert the Chatal and Khayrathati Primary Schools into free Board's primary schools; and

(*iv*) that the School Board has rejected the recommendation?

(*b*) Is the Hon'ble Minister considering the desirability of issuing necessary instructions to the School Board for the establishment of free Board's primary schools in areas where Scheduled Castes people predominate?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*)(*i*) The selection of sites for the free Board's primary schools in the Mymensingh district was made on the basis of the area and population of the district as a whole. The incidence of the Scheduled Castes population was not taken into account.

(*ii*) No such petition is reported to have been received by the District School Board.

(*iii*) and (*iv*) It is reported that there was no proposal by the Kishorganj Primary Education Committee for converting the Chatal Primary School into a free Board's primary school, and that the proposal for converting the Khayrathati Primary School has been postponed for the time being by the District School Board.

(*b*) I will have an enquiry made and, if a case is made out that the Scheduled Castes population have been unfairly treated over the distribution of schools, I will consider whether any action can suitably be taken.

Mr. MONMOHAN DAS: With reference to question (*a*) (*iv*), the answer given is "no such petition is reported to have been received by the District School Board." But my question is, "is the Hon'ble Minister in charge of the Education Department aware that the local Scheduled Castes M.L.A of the Mymensingh East Constituency submitted petitions to the President, District School Board, Subdivisional Inspector, and District Inspector of Schools on different dates and also to the Hon'ble Minister on the 3rd November, 1938, requesting them for the establishment of 17 primary schools in the Scheduled Castes areas of Mymensingh East?"

The Hon'ble Mr. A. K. FAZLUL HUQ: I have already replied that we have no information.

Dr. NALINAKSHA SANYAL: What about Government?

The Hon'ble Mr. A. K. FAZLUL HUQ: I know nothing.

Mr. MONMOHAN DAS: Will the Hon'ble Minister be pleased to state whether it is a fact that on the 3rd November, 1938, on the occasion of his auspicious visit to Kishoreganj the local Scheduled Castes M.L.A had the opportunity of discussing with him the grievances of the Scheduled Castes regarding the conduct of the School Board

towards them, and he submitted one petition to him and also under his instruction and in his presence and hearing submitted another petition to Mr. Clark, the District Magistrate and President of the School Board?

The Hon'ble Mr. A. K. FAZLUL HUQ: It is true that I had a discussion with the member belonging to the Scheduled Castes community representing that area, and it is also true that a petition which was presented to me and which I had no opportunity of reading was handed over by me to the District Magistrate, but I am not aware of the fate of that petition since then. It may have been lying somewhere. I will make enquiries as to what has happened to it.

Mr. MONMOHAN DAS: Is it not a fact that the petition that wa handed over by the local Scheduled Castes M.L.A. to the Minister in charge was given to Khan Sahib Nurun Nabi, the Chairman, and that it was thrown into the waste paper basket by the Khan Sahib?

The Hon'ble Mr. A. K. FAZLUL HUQ: I do not remember having handed over any petition to Khan Sahib Nurun Nabi, but I remember having handed over a petition to the District Magistrate. I do not know what has happened to it. I will make enquiries as I have promised.

Scholarships and stipends to Muslim students.

*494. **Mr. RASIK LAL BISWAS:** Will the Hon'ble Minister in charge of the Education Department be pleased to state the amount spent by the Government in the last official year for scholarships and stipends to the Muslim students in—

(*a*) post-graduate classes;
(*b*) intermediate classes;
(*c*) degree classes;
(*d*) high English schools;
(*e*) middle English schools;
(*f*) senior madrassahs;
(*g*) junior madrassahs;
(*h*) technical institutions;
(*i*) professional institutions;
(*j*) foreign countries; and
(*k*) provinces outside Bengal?

The Hon'ble Mr. A. K. FAZLUL HUQ: The actual amount spent by Government in the last official year for scholarships and stipends to the Muslim students is not available.

A statement showing the annual ultimate cost for different scholarships and stipends for Muslims is laid on the table.

Statement referred to in the reply to starred question No. 494, showing annual ultimate cost for different scholarships and stipends for Muslims.

		Rs.
I.	Graduate scholarships	5,160
II.	Law scholarships	480
III.	Senior scholarships	11,040
IV.	Junior scholarships	11,760
V.	Middle scholarships	12,192
VI.	Primary final scholarships	2,304
VII.	Primary preliminary scholarships	624
VIII.	Scholarships for boys of the Nizamat fmily	2,400
IX.	Scholarships for boys of the Woodburn M. E. School	144
X.	Special stipends for Muslim girls	6,120
XI.	Special stipends for the study of Science	20,640
XII.	Two Overseas scholarships	29,038
XIII.	Scholarships in senior madrassahs	5,352
XIV.	Junior madrassahs scholarships	5,760
XV.	Scholarships in the Ahsanullah School of Engineering	4,320
XVI.	Scholarships in the Bengal Engineering College	8,220
XVII	Scholarships on the result of the High Madrassah Examination	3,456
XVIII	Scholarships on the result of the Islamic Intermediate Examination	3,420
XIX.	Special stipends	17,120

Dr. NALINAKSHA SANYAL: With reference to item No. XII in the list regarding two overseas scholarships against which Rs. 29,038 has been shown, will the Hon'ble Minister be pleased to state if these two scholarships are valued respectively at about half the amount, namely, about Rs. 14,500 a year?

The Hon'ble Mr. A. K. FAZLUL HUQ: I have not the papers before me; so I am not in a position to say that.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if he is aware of any other scholarships under Government where scholars get at the rate of more than Rs. 1,000 per month?

The Hon'ble Mr. A. K. FAZLUL HUQ: As a matter of fact, I am not in a position to say because I have not the papers before me to show how the figure of Rs. 29,038 has been arrived at.

Mr. SPEAKER: There must be some mistake.

Mr. RASIK LAL BISWAS: মন্ত্রী মহাশয় দয়া ক'রে ব'লবেন কি এই যে list এখানে দেওয়া আছে, এ ছাড়াও অতিরিক্ত টাকা গবর্ণমেণ্ট মুসলমান ছাত্রদের scholarship এর জন্য ব্যয় করেন কি না ?

The Hon'ble Mr. A. K. FAZLUL HUQ: আমি ঠিক বলতে পারি না।

Dr. NALINAKSHA SANYAL: I believe there is a misunderstanding. Are there any other scholarships and stipends administered by Government——?

Mr. SPEAKER: Mr. Biswas mentioned "provincial revenues."

Dr. NALINAKSHA SANYAL: He has not mentioned "provincial revenues."

Mr. SPEAKER: Naturally, when Mr. Biswas said that it was not out of the pocket of the Hon'ble Minister.

Dr. NALINAKSHA SANYAL: It may not be out of the provincial revenues. There may be a special fund.

Mr. RASIK LAL BISWAS: যে টাকা মঞ্জুর আছে তা ছাড়াও আরও টাকা কি দেওয়া হোয়ে থাকে ?

The Hon'ble Mr. A. K. FAZLUL HUQ: কার টাকা ? আমার টাকা ?

Mr. RASIK LAL BISWAS: আপনার টাকাও নয়, আমার টাকাও নয়, এটা proviucial revenue থেকে দেওয়া হয় কি না ? তাছাড়াও অতিরিক্ত টাকা দেওয়া হয় কি না ?

The Hon'ble Mr. A. K. FAZLUL HUQ: Provincial revenue থেকে ? আমার ত মনে হয় না।

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if, apart from these, any scholarships for professional or technical training in the Medical College or in the Engineering College are granted out of provincial revenues?

The Hon'ble Mr. A. K. FAZLUL HUQ: There are some technical scholarships.

Mr. DHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to tell us why the actual amount spent by Government in the last official year for scholarships and stipends to the Muslim students is not available?

The Hon'ble Mr. A. K. FAZLUL HUQ: Because it is not available.

Mr. DHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to tell us if the account is or is not ready?

Mr. SPEAKER: It is no use asking that question.

Dr. NALINAKSHA SANYAL: Is the Government considering the desirability of granting a larger number of scholarships for the lower grades of education than for the higher?

The Hon'ble Mr. A. K. FAZLUL HUQ: That raises a very large question whether money should be spent on higher education or on the lower grades of education. As a matter of fact, I entirely agree that much more money ought to be spent on the lower stages than has been done before.

Dr. NALINAKSHA SANYAL: I just want to put one more question. In view of the fact that two scholars in receipt of overseas scholarships——

Mr. SPEAKER: You may forget that. There must be some mistake.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state how many scholars are receiving scholarships under the head "Graduate scholarships"?

The Hon'ble Mr. A. K. FAZLUL HUQ: I must have notice.

Mr. SPEAKER: That cannot possibly be answered.

Lump grant to Kashinagar High English School, 24-Parganas.

*485. **Mr. ANUKUL CHANDRA DAS:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware—

(*i*) that a lump grant of Rs. 144 was sanctioned by the Inspector of Schools, Presidency Division, for the High English School at Kashinagar in the district of 24-Parganas, and

(*ii*) that a memorandum was issued to the school authorities?

(*b*) When was the memorandum issued from the office of the Inspector of Schools, Presidency Division?

(*c*) Is it a fact that the said memorandum was subsequently withdrawn by the said Inspector of Schools?

(*d*) If so, when was the memorandum withdrawn?

(*e*) What is the reason for sanctioning the lump grant and withdrawing the same subsequently?

(*f*) Is the Hon'ble Minister aware that grants-in-aid were sanctioned to the school before and lump grant was also paid to the school before?

(*g*) If the answer to (*f*) is in the affirmative, why were the grants-in-aid discontinued afterwards?

(*h*) Is the Hon'ble Minister considering the desirability of renewing the grants-in-aid to this school in this year?

The Hon'ble Mr. A. K. FAZLUL HUQ: (*a*) and (*c*) Yes.

(*b*) On 21st March, 1939.

(*d*) On 24th March, 1939.

(*e*) The lump grant was sanctioned to meet some deficit in the expenditure of the school. But it had to be withdrawn as it subsequently transpired that the allotment at the disposal of the Inspector of Schools, Presidency Division, was not sufficient to cover the charge.

(*f*) The school had been in receipt of a maintenance grant of Rs. 100 per month prior to 1930-31. Subsequently lump grants were sanctioned each year out of the savings of the allotment placed at the disposal of the Divisional Inspector of Schools.

(*g*) The maintenance grant was discontinued in view of the unsatisfactory condition of the school.

(*h*) Yes, if funds permit and the condition of the school improves.

(*h*) Yes, if funds permit and the condition of the school improves.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state whether the Inspector of Schools who communicated the grant on the 21st of March, 1939, was not aware of the funds available——

Mr. SPEAKER: I think, Dr. Sanyal, you ought to work as Inspector of Schools.

Mr. P. BANERJI: Will the Hon'ble Minister be pleased to enlighten us as to what he means by the condition of the school—whether it is examination result or financial condition?

The Hon'ble Mr. A. K. FAZLUL HUQ: General management, Sir.

Mr. P. BANERJI: Will the Hon'ble Minister be pleased to enlighten us as to whether any lump grant was sanctioned between the year 1936-37 and the present year?

The Hon'ble Mr. A. K. FAZLUL HUQ: I want notice.

Mr. P. BANERJI: Is the Hon'ble Minister in a position to contradict me when I say that no lump grant was sanctioned during his time?

The Hon'ble Mr. A. K. FAZLUL HUQ: Even that I cannot answer.

Mr. P. BANERJI: With reference to answer (*f*), viz., that lump grant was sanctioned each year, will the Hon'ble Minister be pleased to state whether this lump grant was given to this particular school or to any other school?

The Hon'ble Mr. A. K. FAZLUL HUQ: Yes, I have stated that it was given.

Mr. SPEAKER: Every year?

The Hon'ble Mr. A. K. FAZLUL HUQ: It is difficult to say, Sir, from memory.

Mr. P. BANERJI: Will the Hon'ble Minister be pleased to state why this paucity of funds was not detected at the time of issuing the notice on the 21st March, 1939?

Mr. SPEAKER: That question does not arise.

Mr. ANUKUL CHANDRA DAS: In view of the fact that a lump sum grant was recommended by the Inspector of Schools, will the Hon'ble Minister be pleased to state if the grant to the school will be given next year?

The Hon'ble Mr. A. K. FAZLUL HUQ: I have already answered that.

Dr. NALINAKSHA SANYAL: Yes, if you behave well.'

Mr. P. BANERJI: Is the Hon'ble Minister in a position to tell us what, according to the report of the Inspector, is the condition of the school?

The Hon'ble Mr. A. K. FAZLUL HUQ: No, Sir, I had no occasion to call for a report, and I do not know the present condition.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Post of Muslim Marriage Registrar of Barabazar, Calcutta.

237. Mr. SYED AHMED KHAN: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state when did the post of the Kazi and the Muslim Marriage Registrar fall vacant at Barabazar in Calcutta?

(*b*) What are the names and qualifications of the candidates who applied for the post?

(*c*) Has a Bengali candidate been appointed to the post?

(*d*) If not, what are the reasons?

The Hon'ble Mr. A. F. FAZLUL HUQ: (*a*) The vacancy occurred from the 25th December, 1937.

(*b*) to (*d*) The matter is under consideration and the information cannot be supplied at this stage.

STARRED QUESTIONS

(to which oral answers were given)

Number of men externed from Calcutta and held under restraint.

497. Mr. SYED AHMED KHAN: Will the Hon'ble Minister in charge of the Home Department be pleased to lay on the table a statement showing since the year 1930—

(i) the names of the persons—

(1) externed from Calcutta and the rest of Bengal under the provisions of the Goonda Act,

(2) placed under restraint under the Criminal Tribes Act, and

(3) placed under restraint under sections 54 and 109 of the Criminal Procedure Code;

(ii) their homes;

(iii) the period of their residence in Calcutta;

(iv) the nature of the crimes they were suspected of;

(v) the period for which they have been externed and restrained; and

(vi) the actual period they have already passed in externment and restraint?

(b) Are the Government considering the desirability of withdrawing the restraint orders?

(c) Are the Government also considering the desirability of a revision and review of the cases with a view to withdraw restraint orders from deserving cases?

(d) If the answers to (b) and (c) or any of them are in the negative, will the Hon'ble Minister be pleased to state the reasons?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): The information is not available in the form required by the hon'ble member and to compile it would entail an expenditure of time, labour and money which I regret I am not prepared to undertake.

Mr. DHIRENDRA NATH DATTA: Will the Hon'ble Minister be pleased to tell us whether any attempt was made to obtain the information?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would draw the attention of the honourable member to the fact that it is not available and that an attempt could be made, but it would not be commensurate with the expenditure of time, labour and money which would be involved in getting the information.

Theft and burglary in Daudkandi police-station, Tippera.

*498. **Mr. RAMIZUDDIN AHMED:** (a) Will the Hon'ble Minister in charge of the Home Department be pleased to state the number of reported cases of theft and burglary of the Daudkandi police-station, district Tippera, separately from—

(i) June to October, 1938; and

(ii) November, 1938, to 15th April, 1939?

(*b*) Is the Hon'ble Minister aware that the number of thefts and burglaries has increased in Unions Nos. 12, 13 and other neighbouring unions for the last few months?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state—

(*i*) what are the reasons; and

(*ii*) what steps are proposed to be taken to stop the increase in cases of thefts and burglaries?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) (*i*) Thefts 15 and burglaries 39.

(*ii*) Thefts 16 and burglaries 92.

(*b*) Yes.

(*c*) (*i*) Economic distress and lack of employment for day labourers, combined with the release from jail of a number of old offenders.

(*ii*) The following action has been taken:—

(1) Eighteen persons have been dealt with under section 110, Criminal Procedure Code, and proceedings under that section are pending against another 7 persons.

(2) Sixteen members of the Criminal Tribes have been prosecuted and convicted under the Criminal Tribes Act.

(3) Twenty old offenders have been prosecuted and convicted under section 565 (5) of the Criminal Procedure Code.

(4) Numerous meetings have been held and a number of new Village Defence Parties formed.

(5) Special police patrols have been introduced in certain parts of the affected areas.

Mr. DHIRENDRA NATH DATTA: Is the Hon'ble Minister aware of the fact that thefts and burglaries are due to the fact that a member of the union board has been nominated by Government in union board No. 2 who has been connected with a large number of notorious thefts and burglaries?

Mr. SPEAKER: That question does not arise.

Holiday for the Rathjatra Festival.

Dr. NALINAKSHA SANYAL: Sir, we have got a notice to-day from your office informing us that we shall have a meeting on the 19th of June which is a holiday on account of the Rathjatra festival.

Mr. SPEAKER: I am not sure whether it is the intention of Government to hold a meeting on that date.

The Hon'ble Mr. H. S. SUHRAWARDY: I think this holiday is not observed anywhere except in schools and colleges.

Mr. JOGESH CHANDRA GUPTA: I submit, Sir, this holiday is included in the list of holidays for the High Court, although in actual practice it is enjoyed along with the Easter holidays.

The Hon'ble Khwaja Sir NAZIMUDDIN: If the House so desires, it will be a holiday. (Cheers from all sides.)

Adjournment Motion.

Mr. SPEAKER: Mr. Mazumdar, I took time yesterday to consider your adjournment motion I want to be satisfied on one point. You have not given any information as to the nature of violence used by the police. That is point No. 1. When was the prohibitory order promulgated and what are the other acts of violence committed by the police?

Mr. NIHARENDU DUTTA MAZUMDAR: Sir, I shall explain——

Mr. SPEAKER: I don't want any explanation, but what is the nature of violence?

Mr. NIHARENDU DUTTA MAZUMDAR: I will state the nature of violence. On the 13th June at 11 o'clock the workers of the French Motor Car Company——

Mr. SPEAKER: Will you please specifically answer my question?

Mr. NIHARENDU DUTTA MAZUMDAR: Yes, Sir. The police arrived within ten minutes after the downing of the tools and hustled the workers out by force by ejecting them from inside the factory, and violence was used on a rickshaw man who was passing just in front of the factory, and the workers were assaulted with a view to clear the factory premises of strikers; and shortly after that section 144 was promulgated. All these took place, and tear gas equipment was carried inside the premises and used to intimidate the strikers, and violence was being used all the time with a view to keep clear the premises of the men.

Mr. SPEAKER: Inside the premises?

Mr. NIHARENDU DUTTA MAZUMDAR: Yes, Sir.

Mr. SPEAKER: Were there any injuries on these persons? The difficulty is that I cannot adjudicate unless I have specific facts. I have tried to see the newspaper version this morning, but unfortunately I cannot get any light even from that. Was there any hospital report as regards the injuries?

Mr. NIHARENDU DUTTA MAZUMDAR: There have been injuries sustained by some of these men who were attended to by the doctors, but in the whole area the workers were not being allowed to go and they were being dispersed, and to-day, Sir, it is not possible to find out the exact number of men who were precisely injured, but I can say this much that there were actual injuries sustained by some of these men.

Mr. SPEAKER: May I know the official version? The first point is whether tear gas was at all sent to the premises; the second point is whether there was any violence used and, if so, what form of violence it was, and if there was any authentic record of that; the third point is whether the police hustled the workers out immediately after they came.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, as regards the tear gas, I would like to read out what the Commissioner of Police says about it:—

"As regards the allegations that the police were armed with tear gas equipment, I write to say that this tear gas equipment is part of the normal routine mobilization arrangements in force in the city. The equipment was never unpacked from its cases, and, as a matter of fact, I personally was unaware that the stuff had been brought along. There was never any question of using tear gas which would be used only in case of emergency.

As regards the allegation that the police action constituted a gross interference with the workers' rights in a trade dispute. ....."

Mr. SPEAKER: You need not read all that.

The Hon'ble Khwaja Sir NAZIMUDDIN: Then as regards the other points, I stated yesterday that there was no question of any violence on the part of the police. The honourable member has not been able to state, in spite of his definite allegation that violence was used, whether anyone was injured or not. His own statement was that some of the workers were assaulted, but he has not dared even to

say that anybody in particular was assaulted. (Rai HARENDRA NATH CHAUDHURI: Yes, he has said so.) Our report is that the workers were asked to vacate and that they left peacefully, and there was no question of any violence or any assault whatsoever.

Mr. NIHARENDU DUTTA MAZUMDAR: May I point out, Sir, that sixteen lorry-loads of police were imported there—an extraordinarily large number? The workers were assaulted and some of them sustained injuries. If they were only asked to vacate the premises peacefully, then it was quite enough for one officer to say: "You vacate the premises." The police went inside and intimidated them with tear gas.

Mr. SPEAKER: But you have just heard that the tear gas equipments were not opened at all.

Mr. NIHARENDU DUTTA MAZUMDAR: Whether the police came with the tear gas equipment with a view to intimidate the workers, that is the point, Sir. Whether any tear gas was let out or not does not matter in the least.

Mr. SPEAKER: But the Hon'ble Minister says that the cases were not even opened.

Mr. NIHARENDU DUTTA MAZUMDAR: Then why were the cases taken inside the factory? Let the Hon'ble Minister explain that.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I do not understand the attitude of the honourable member. The police has got to be prepared for all eventualities and emergencies. The police would be held equally guilty if they had gone to the spot without being properly armed. Supposing some incident had taken place, then they would have to send a lorry to bring the tear gas equipment. I submit, Sir, that it is absurd and ridiculous to suggest a thing like that. (Mr. NIHARENDU DUTTA MAZUMDAR: What about the *lathi* charge?) There was no *lathi* charge. The mere fact that the equipments were in their cases and were not even unpacked shows the hollowness of the argument of Mr. Mazumdar.

Mr. NIHARENDU DUTTA MAZUMDAR: Tear gas is used to intimidate the workers——

Mr. SPEAKER: I am afraid I must say that in order that an adjournment motion may be in order when it relates to an ordinary

strike or lock-out a clear case has got to be made out before it can be allowed. There are series of rulings on adjournment motions given both here and in the Central Legislature, and just now I have got before me a case of the Central Legislature on a big lock-out at Lillooah. Mr. Joshi brought an adjournment motion. I am not sure who was the President, but I think it was Mr. V. J. Patel, who said: "If I were to admit this motion, it would mean that every lock-out or strike can be a subject-matter for a motion for adjournment. I am afraid I am not prepared to lay down such a general rule. Unless there are any special circumstances connected with a lock-out or strike justifying the honourable member to break through the normal business of the House, I am not prepared to allow him to do so."

That is a very sound and salutary principle, namely, that in connection with a lock-out or strike it is not any and every matter which can be the subject-matter of an adjournment motion.

In this particular case, it seems that the official version differs from the version which has been given by Mr. Mazumdar (Rai HARENDRA NATH CHAUDHURI: It must necessarily!), but it is not for me to assess which is the correct version. It is a salutary principle that some sort of official information should be available. On reading between the lines what Mr. Mazumdar and the Hon'ble Sir Nazimuddin have said, I find that this is not a case in which violence was used to such an extent which would justify the breaking of the normal business of the legislative proceedings of this House.

As regards the question of tear gas and other matters, as far as I have been able to understand, the only manner in which this motion would probably have been in order was if the honourable member had given notice only on the restricted issue as to whether it was right—legally or otherwise—for the police to disperse stay-in strikers, as in this particular case. That is the only legal issue on which an adjournment motion can be brought at the very start when the stay-in strike has not yet been resorted to in large numbers. I would have been prepared to admit this motion if it had been confined to the narrow single issue—the right of the police to disperse a stay-in strike. In a matter like this it is no use having a multiplicity of issues, but it would be better to confine the motion to one direct specific issue. In this case, unfortunately, the honourable member, as the motion stands, has not drafted in that way. He has not at all tried to find out the legality or otherwise of the police action in dispersing the stay-in strike. I would have probably considered it in order if it was confined to that issue. As it is, the situation is arising out of the forcible ejection of the workers and the promulgation of the prohibitory orders and other acts of police excess—in view of this language, I hold, for the time being, that the present motion is not in order.

Mr. NIHARENDU DUTTA MAZUMDAR: In the end I mentioned—involving workers' right as well as civil liberty. Sir, I am thankful for the suggestion you have made, and I shall be very much grateful if you will allow me to modify the wordings of my motion——

Mr. SPEAKER: If you give a fresh notice, I will consider it.

Mr. NIHARENDU DUTTA MAZUMDAR: Sir, in view of the fact that to-morrow I will have to surrender in order to serve out my term of imprisonment and so will not be able to be present here, will you kindly allow one of my colleagues, Mr Satya Priya Banerji, to give a fresh notice on my behalf——

Mr. SPEAKER: I will consider that.

The Hon'ble Khwaja Sir NAZIMUDDIN: Police action was taken on a warrant issued under section 448 of the Indian Penal Code by the Presidency Magistrate So whatever action was taken was taken in pursuance of that warrant.

Mr SPEAKER: In any case, I will look into the matter.

GOVERNMENT BILL.

The Bengal Money-lenders' Bill, 1939.

Clause 31.

Mr. SPEAKER: We will now take up clause 31.

I might inform the members that we have been able to tabulate all the amendments that have hitherto been carried in the proper form, and, the Bill, as changed in view of the amendments carried, has been given a proper shape and exactly in that shape the Bill will be circulated to the members on Tuesday so that they might know what amendments have been carried.

Is there any Government amendment on this clause?

The Hon'ble Mr. H. S. SUHRAWARDY: No, Sir.

Dr. NALINAKSHA SANYAL: I am not quite sure if amendment No. 1090 is in order.

Mr. SPEAKER:-He is not moving it.

Dr. NALINAKSHA SANYAL: Sir, our trouble is that supposing no opportunity is given to us to discuss the merit or otherwise——

Mr. SPEAKER: If the members want to discuss, I will certainly allow it afterwards.

Dr. NALINAKSHA SANYAL: But just now, this clause will be put to vote and there will be no opportunity for us to discuss.

Mr. SPEAKER: No. I am not putting clause 31 now., I am merely disposing of the amendments. I will put all the clauses separately. If you want to say a few words, you may do so after the amendments have been moved. Let me first dispose of the amendments.

Maulvi ABU HOSSAIN SARKAR: Sir, I beg to move that in clause 31, line 2, after the word "commodity" the words "published in the Official Gazette" be inserted.

Mr. SPEAKER: Are you quite sure that commodity prices are all published in the *Calcutta Gazette*? It is only the staple food crop prices and not commodity prices that are published.

Maulvi ABU HOSSAIN SARKAR: The prices of jute, linseed, rice and other commodities are regularly published in the *Calcutta Gazette*. Therefore, that price should be taken as the standard. Unless and until some data are given, it will be very difficult for the Court to ascertain the standard price.

Mr. SPEAKER: Be sure of the facts.

Maulvi ABU HOSSAIN SARKAR: I am sure, the prices of most of the commodities are published in the *Calcutta Gazette*.

Dr. NALINAKSHA SANYAL: Sir, I would like to say a few words at this stage. This clause 31 had to be retained and incorporated in the Bill for several very cogent and important reasons. As you will notice, originally the draft Bill proposed to have two sets of interest—one for loans in kind and the other for loans in money. It was then felt that probably it would be very much more convenient if only one set of rate of interest was made applicable instead of two, and the Select Committee thought fit to have only one set retained on the understanding that in all cases of loans in kind, the money value of the commodity advanced will be the basis of calculating the rate of interest. As you are aware, the value of commodities, particularly agricultural commodities, fluctuates very widely from season to season. Usually in our rural areas, paddy is taken advance of in the months of June, July

and August when the price of paddy is very high. At that time, our cultivators are in need of paddy both for their own living as well as for the purpose of seed. At that time, ordinarily the price rules at near about Rs. 2 and above per maund. This paddy is supposed to be returned after the crop is harvested in the months of December and January. At the time when crop is harvested, as my friend, Mr. Ahmed Hosain, will readily realise as, I understand, he is taking keen interest in this subject, the price of paddy in the months of December and January usually ranges from Re. 1-4 to Re. 1-8 per maund. There has been thus a drop in the capital value itself of nearly 60 to 75 per cent. If the rate of interest allowed is retained at 8 per cent. per annum or even 10 per cent. per annum, the rate per month will work out at about 14 annas or something like that and from the month of June to the month of January, assuming that the rate of interest is 10 per cent., for six months will work out at 5 per cent. If one maund of paddy has been advanced in the month of June, the price whereof was Rs. 2 at that time, the debtor will be required to repay that one maund with 5 per cent. added to that, namely, 2 seers more, that is 42 seers. The price of 42 seers in the month of January will be about Re. 1-6 to Re. 1-10 at the most, so that the creditor cannot, unless the money value is taken, possibly get back even the original capital advanced. Under such circumstances a provision of this character will only lead to entire stoppage of loan in kind, a fruitful source of credit in our rural areas will be completely gone and the villagers, the cultivators who are in dire need of paddy during the months of May, June, and July will be absolutely thrown at the mercy of Providence and will be absolutely ruined. I believe those of our friends who want to save the cultivators do not want them to be placed in a position where they will refuse to pay even the capital advanced and through such absurd proposition will on their part be refused any credit whatever. We have discussed this question very carefully in the Select Committee, and when we had to retain this, we felt that it is not merely the price at the time of lending out that has got to be considered but also the money value of the article returned from time to time and at the time when such crops are returned should also be computed. There should be no difficulty in this, because in our rural areas wherever we go we know that there is a market and the market prices within certain small limits of fluctuation are generally known; even if the creditors take it on a bond that the price is of such a figure which is not prevalent in the market, it should not be difficult to give evidence as to what was the actual prevailing price. My friend Mr. Abu Hossain Sarkar has suggested formally that the price if computed on the basis of—

Mr. SPEAKER: I would ask Mr. Abu Hossain Sarkar how to find out the commodity price.

Dr. NALINAKSHA SANYAL: Recently we find that quarterly returns are published from time to time. We have carefully gone into this question, and we found that there was no uniformity in this respect, nor was there any statutory obligation on Government to publish from time to time in the Official Gazette the prices ruling in different centres.

Maulvi ABU HOSSAIN SARKAR: Government have been always publishing these reports.

Dr. NALINAKSHA SANYAL: Government may not publish, may not collect these statistics.

On the contrary, we also found that the method of collecting statistics by Government in regard to such official statistics is so poor that you can never depend on the figures supplied by Government even where they are published. Moreover, we have different varying conditions prevailing in different parts of the country. In the Rarh areas the price of paddy during a particular month will be one which will be quite different from the price prevailing in Chittagong or in Noakhali and, consequently, a transaction which has got to be based on the price which varies in different places will not be applicable to the actual state of affairs either in Burdwan or in Chittagong, because it will have to be based on the actual average. As these practical difficulties intervene, we had to leave it at this and to leave the determination of money value to evidence, and we trust there should be no difficulty in obtaining adequate evidence in this connection. I therefore submit that the Hon'ble Mr. Suhrawardy, who had evidently some inspiration when he sent this amendment to delete the clause and thereby gave us some indication of his mind, will probably do well to reconsider the position and not try to stop a fruitful source of credit in the rural areas, whereby nearly 90 per cent. of credit to-day is obtained by the agriculturists.

Mr. SPEAKER: That disposes of all the amendments on clause 31.

The motion of **Maulvi** Abu Hossain Sarkar that in clause 31, line 2, after the word "commodity" the words "published in the Official Gazette" be inserted was then put and lost.

Clause 32.

The Hon'ble Mr. H. S. SUHRAWARDY: I beg to move that the proviso to clause 32 be reinstated.

Mr. SPEAKER: Is there any amendment?

Mr. JOGESH CHANDRA GUPTA: I have sent in an amendment. May I move it?

Mr. SPEAKER: Yes.

Mr. JOGESH CHANDRA GUPTA: I beg to move that the following proviso be added to the amendment Nos. 1094-1100 standing in the name of the Hon'ble Mr. H. S. Suhrawardy and others to clause 32 of the Bengal Money-lenders' Bill, 1939:—

"Provided further that in the case of unsecured loans registration charges and stamp duties shall not be deemed as costs, charges, or expenses incidental or relating to the granting of such loans".

You will notice that section 32 has provided certain prohibition of charges and expenses for securing loans. I shall just now show that the reinstatement of the proviso makes it necessary that this express provision should be made. The section reads thus "Any agreement between a lender and a borrower or intending borrower for the payment to the lender of any sum on account of costs, charges or expenses incidental or relating to the negotiations for, or the granting of, the loan or proposed loan, shall be illegal, and if any sum is paid to a lender by the borrower or intending borrower as, for or on account of any such costs, charges or expenses, that sum shall be recoverable as a debt due to the borrower or intending borrower".

This provision is necessary to protect the borrowers from extortions in a round-about way and they are hereby being secured from having to pay heavy commission or other perquisites for the purpose of securing the loan. In the proviso it is stated "Provided that nothing in this section shall debar a lender from recovering the costs of investigating title, of stamp duty and registration of documents and other usual out-of-pocket expenses in cases where the agreement includes a stipulation that property is to be given as security".

If the prohibition in the main section 32 remains and by this proviso if we only mention about secured loans, then there is one difficulty regarding unsecured loans as registration is insisted upon in the case of many unsecured loans. Unsecured loans above Rs. 100 and generally Rs. 200 and Rs. 300 are always executed by registered documents. My amendment seeks to provide that in case of unsecured loans registration charges and stamp duties shall not be deemed as costs, charges and expenses incidental or relating to the granting of such loans.

Sir, I want the House to consider this. We are, by the provisions that we have made in this Bill, discouraging unsecured loans. It will be very difficult to have unsecured loans when the difference in

the rate of interest is only two per cent. And if we further make the lender liable for registration charges, stamp duties and other things, there will be a greater discouragement to lend money as unsecured loans. Ninety-five per cent. of the needy borrowers cannot offer any security. We ought not to put more handicaps in the way of their getting loans by having this prohibition of charges, I mean the registration charges, stamp duties, etc. I hope the Hon'ble Minister will accept my amendment which is a reasonable one and which is consistent with the section and particularly the proviso, having regard to the fact that we should try to facilitate borrowers getting unsecured loans.

Mr. SPEAKER: The position is this. I may just explain, so that the members also might understand the position, that under section 32, if promulgated, it would be illegal for any money-lender to impose stamp duties and registration charges on any kind of documents. Now, this is going to be protected by the proviso that in the case of a secured loan such charges and certain other charges might be taken in. Mr. Gupta has raised a very pertinent point. He wants to make a distinction that in the case of unsecured loans registration charges and stamp duties shall not be deemed as costs, charges, or expenses incidental or relating to the granting of such loans. So far as the other charges are concerned, they will be equally applicable to both secured and unsecured loans. His point is that the draft might be so changed or his amendment adopted that the out-of-pocket expenses and other charges might be applicable to unsecured loans, whereas cost of investigating title registration charges, stamp duty and other usual out-of-pocket expenses duty might come in for secured loans only.

The Hon'ble Mr. H. S. SUHRAWARDY: I feel that there is some force in Mr. Gupta's arguments, but they are not very convincing. May I point out, Sir, one thing that under the provis it is not merely the sums of money spent as costs of investigating title, stamp duties and registration of documents which are recoverable but also all charges, costs, charges or expenses leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force? That means to say, Sir, that if these sums are leviable under the provisions of the Transfer of Property Act, we do not want to interfere with them. Sir, what is the position now in the case of unsecured loans? Are these charges leviable or are they not leviable? As matters stand, if they are leviable under any law, they will continue to be leviable. If they are not leviable under any law, why should we put down a proviso giving the lender the right to recover these charges from the

borrower, when under the present law he cannot recover them from the borrower? If the present law does not give the lender the right——

Dr. NALINAKSHA SANYAL: It does.

The Hon'ble Mr. H. S. SUHRAWARDY: It it does, it does and then my proviso covers that: "Such charges as are leviable under the provisions of the Transfer of Property Act or any other law for the time being in force". That does not apply only to secured loans; it applies also to all charges which are recoverable under the Transfer of Property Act or any other law for the time being in force. There is one thing more I want to say. The arguments of Mr. Gupta are not entirely convincing. In the case of an unsecured loan if money is spent on registration, after all whom does it benefit? It does not benefit the borrower It benefits the lender. The lender causes the document to be registered, because it increases the period of limitation from 3 to 6 years and if that is the advantage derived by registration, why should not the lender pay the charges of registration? Well, something can be said in respect of stamp duties which the lender always pays.

Babu NAGENDRA NATH SEN: Under the Indian Stamp Act it is payable by the borrower.

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, in my opinion the last portion of the proviso which we are putting back covers it.

Rai HARENDRA NATH CHAUDHURI: Not at all.

Mr. JOGESH CHANDRA GUPTA: That excludes it. There is general prohibition in clause 32, and then in the proviso you provide exceptions in spite of the general law. You mention that the registration charges, stamp duties, etc., will be exempted. That will by implication lead to the inference that in case of unsecured loans the prohibition will be in full effect.

The Hon'ble Mr. H. S. SUHRAWARDY: The proviso, so far as I can read it, covers both secured and unsecured loans.

Rai HARENDRA NATH CHAUDHURI: No, no.

The Hon'ble Mr. H. S. SUHRAWARDY: The first portion of the proviso deals with secured loans. The last three lines of the

proviso deal with all charges, or expenses leviable and recoverable under the provisions of the Transfer of Property Act, 1882, or any other Act for the time being in force.

Mr. JOGESH CHANDRA GUPTA: The Transfer of Property Act will not apply to unsecured loans.

The Hon'ble Mr. H. S. SUHRAWARDY: Or any other law for the time being in force. If under the Stamp Act the borrower has to pay stamp charges in the case of an unsecured loan that will be covered by the proviso. So far as registration is concerned, it really benefits the lender who by means of registration is able to increase the period of limitation from 3 to 6 years. There is no reason why the borrower should be called upon to pay the registration charge.

Mr. SPEAKER: No, that is not the position.

The Hon'ble Mr. H. S. SUHRAWARDY: May I have an opportunity to consider this further, because I am inclined to help Mr. Gupta if I find that it is acceptable?

Mr. SPEAKER: In that case this proviso may be postponed for the time being.

Clause 35.

The Hon'ble Mr. H. S. SUHRAWARDY: May I point out, Sir, that the new amendment which we are circulating at the present moment and of which I have given notice is amendment No. 1145A?

Rai HARENDRA NATH CHAUDHURI: We have not got the copies as yet.

The Hon'ble Mr. H. S. SUHRAWARDY: It is just coming.

Rai HARENDRA NATH CHAUDHURI: How can we understand his arguments without knowing what the amendment is?

Mr. SPEAKER: He is not now moving the amendment.

Mr. JOGESH CHANDRA GUPTA: Mr. Speaker, Sir, I think there ought to be a ruling that the Hon'ble Minister having tabled amendments Nos. 1135 and new 46, he ought to move them, and if there are any other amendments let us have those amendments first.

Mr. SPEAKER: It is in substance the same as amendment No. 1135. He has only made certain verbal alterations.

Mr. ABDUR RAHMAN SIDDIQI: On a point of order, Sir, you were good enough to say that the Hon'ble Minister was not moving his amendment. The Hon'ble Minister was on his legs, but what was he speaking about? He was not speaking about any motion or resolution or amendment, and I seek——

Mr. SPEAKER: My ruling is that on the analogy of the great philosophical truth there can be a thing with quiddity.

I think this new amendment is almost exactly the same as amendment No. 1135 except that there are two provisos added to it and the addition of one sentence. If members will kindly see sub-clause (2), that is the only amendment. So the Government amendment is giving notice to the defendant with the addition of two provisos. It is an improvement. I would ask Mr. Suhrawardy to move it.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that for clause 33(*b*)(*a*), the following be substituted, namely:—

"(*a*) in suits in respect of loans to which the provisions of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, apply, on the application of the defendant and after hearing the plaintiff, notwithstanding the limit of six months prescribed therein, direct at the time of the passing of the preliminary decree under rule 2 or rule 4 of the said Order to the effect mentioned in sub-clause (*i*) of clause (*c*) of sub-rule (*1*) of the said rule 2,—

(i) that the payment of the amount found or declared due under sub-rule (*1*) of rule 2 or sub-rule (*1*) of rule 4 of the said Order, as the case may be, is to be made, subject to such conditions as the Court may impose in such number of annual instalments and on such dates as the Court thinks fit having regard to the circumstances of the plaintiff and the defendant and the amount of the decree; and

(ii) that in default of payment of any such instalment the plaintiff shall, after giving to the defendant such notice as may be prescribed, be entitled to apply for a final decree under sub-clause (*ii*) of clause (*c*) of sub-rule (*1*) of the said rule 2 or under sub-rule (*1*) of the said rule 4, as the case may be, and the date of such default shall be deemed to be the date fixed under sub-clause (*i*) of clause (*c*) of sub-rule (*1*) of the said rule 2 for payment of the whole amount found or declared due under or by the preliminary decree:

Provided that nothing in this clause shall affect the power of the Court to allow extension of time under sub-rule (*2*) of rule 2 or sub-rule (*2*) of rule 4 of the said Order:

Provided further that if the defendant, after receiving the notice referred to in sub-clause (*ii*) and before a final decree is passed, makes payment into Court of the amount due from him in respect of any such instalment, the payment of such amount shall not be deemed to be in default and the Court shall not pass a final decree."

Sir, I think it is clear. The reason for the proviso is that in the Bill, as it emerged from the Select Committee, the clause first gives authority to the court to grant instalments in the case of a preliminary decree, but thereafter it enacts that instalments may spread over a period of ten years and that if there is any default in instalment, then each instalment shall carry interest up to 3 per cent per annum, until realisation. But it would appear that as long as instalments last, it will not be possible for the creditor to realise the amount in any manner possible. He cannot execute the decree by selling the mortgage property, and therefore this may result in a debtor just taking instalments and then paying 3 per cent. interest on each instalment and waiting until the period expires. Therefore, I gave notice of amendment No. 1135 which while giving to the court power to give instalments at the same time protected the realisation of the loan to this extent that in the case of default it was open to the creditor to come to the court and ask for a final decree.

Now, Sir, the new amendment, which we have just circulated, adds two further clauses. One is that the instalment should be in the nature of annual instalments; otherwise, any court may conceivably or inconceivably grant monthly instalments or short quarterly instalments and so on, which would defeat the purpose of this section. Moreover, if in the case of a default the defendant, before the final decree is passed, pays the instalment into court, then the final decree will not be passed. It will be stayed and it will only be passed in case of actual default till such time as is fixed for the passing of the final decree

Rai HARENDRA NATH CHAUDHURI: May I, Sir, point out one thing? So far as this amendment is concerned, there seems to be some mistake in typing. In the second proviso to the amendment there appear the words "payment of such amount"—should that be "amount" or "instalment"?

Mr. SPEAKER: Yes, it is all right.

I think this is a simple matter and that it is an improvement. I shall now put the question.

The motion of the Hon'ble Mr. H. S. Suhrawardy that for clause 33(*1*)(*a*), the following be substituted, namely:—

"(*a*) in suits in respect of loans to which the provisions of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, apply, on the application of the defendant and after hearing the plaintiff, notwithstanding the limit of six months prescribed therein, direct at the time of the passing of the preliminary decree under rule 2 or rule 4 of the said Order to the effect mentioned in sub-clause (*i*) of clause (*c*) of sub-rule (*1*) of the said rule,—

(*i*) that the payment of the amount found or declared due under sub-rule (*1*) of rule 2 or sub-rule (*1*) of rule 4 of the said Order, as the case may be, is to be made, subject to such conditions as the Court may impose in such number of annual instalments and on such dates as the Court thinks fit having regard to the circumstances of the plaintiff and the defendant and the amount of the decree; and

(*ii*) that in default of payment of any such instalment the plaintiff shall, after giving to the defendant such notice as may be prescribed, be entitled to apply for a final decree under sub-clause (*ii*) of clause (*c*) of sub-rule (*1*) of the said rule 2 or under sub-rule (*1*) of the said rule 4, as the case may be, and the date of such default shall be deemed to be the date fixed under sub-clause (*i*) of clause (*c*) of sub-rule (*1*) of the said rule 2 for payment of the whole amount found or declared due under or by the preliminary decree:

Provided that nothing in this clause shall affect the power of the Court to allow extension of time under sub-rule (*2*) of rule 2 or sub-rule (*2*) of rule 4 of the said Order:

Provided further that if the defendant, after receiving the notice referred to in sub-clause (*ii*) and before a final decree is passed, makes payment into Court of the amount due from him in respect of any such instalment, the payment of such amount shall not be deemed to be in default and the Court shall not pass a final decree.",

was then put and agreed to.

Mr. SPEAKER: Is there any other amendment on clause 33?

Babu NAGENDRA NATH SEN: I have got one amendment, namely, No. 1131.

Mr. SPEAKER: I am asking Mr. Suhrawardy whether there are any Government amendments on clause 33.

The Hon'ble Mr. H. S. SUHRAWARDY: The Government amendments are Nos. 1167, 1170 and 1172. I am not going to move amendment No. 1160.

Rai HARENDRA NATH CHAUDHURI: Then we want to move No. 1160.

Maulvi ABU HOSSAIN SARKAR: Sir, I have got amendment No. 1171 standing in my name.

Mr. SPEAKER: Therefore, so far as clause 33(1)(a) is concerned, that is carried. So far as clause 33(1)(b) is concerned, the Government amendments are Nos. 1167, 1170 and 1172.

Dr. NALINAKSHA SANYAL: Are we to understand, Sir, that Government is not moving amendment No. 1160?

Mr. SPEAKER: No.

Rai HARENDRA NATH CHAUDHURI: Then we will move it

Mr. SPEAKER: Mr. Suhrawardy, will you please move the Government amendments?

The Hon'ble Mr. H. S. SUHRAWARDY: Yes, Sir.

Sir, I beg to move that in clause 33(1)(b), in line 18, for the words "defendant or the judgment-debtor" the words "plaintiff and the defendant or the decree-holder and the judgment-debtor" be substituted.

I also beg to move that clause 33(2) be omitted

I also beg to move that clause 33(3) be omitted.

Mr. DHIRENDRA NATH DATTA: Sir, is not Government moving amendment No. 1160?

Mr. SPEAKER: No, Mr. Datta, you require a spectacle for your ears also. (Laughter.)

The motion of the Hon'ble Mr. H. S. Suhrawardy that in clause 33 (1) (b), in line 18, for the words "defendant or the judgment-debtor" the words "plaintiff and the defendant or the decree-holder and the judgment-debtor" be substituted, was then put and agreed to.

The motion of the Hon'ble Mr. H. S. Suhrawardy that clause 33 (2) be omitted, was then put and agreed to.

The motion of the Hon'ble Mr. H. S. Suhrawardy that clause 33 (3) be omitted, was then put and agreed to.

Mr. SPEAKER: That disposes of all the Government amendments on this clause.

Mr. JOGESH CHANDRA GUPTA: So the substituted clauses are passed?

Mr. SPEAKER: Yes. Mr. Nagendra Nath Sen, will you please now move amendment No. 1131 which stands in your name?

Babu NAGENDRA NATH SEN: Yes, Sir.

I beg to move that in clause 33 (*1*), in line 3, for the word "shall" the word "may" be substituted.

Sir,——

Mr. SPEAKER: Just let me see if any other amendment is moved on this clause.

(After ascertaining that no other amendment will be moved on this clause):—There is only one amendment, namely, No. 1131, which has been moved on this clause. Mr. Sen, you can now proceed with your speech.

Babu NAGENDRA NATH SEN: The original clause reads thus: "Notwithstanding anything contained in any law for the time being in force or any agreement, the court shall in suits", etc., etc.

Now, Sir, this amendment which I have proposed seeks to replace the word "shall" by the word "may". It cannot be said with any amount of grace that the hands of the court should be fettered in this way as against the court of justice there has been no insinuation, and what tends to the better administration of justice is that in such cases the court should be given the discretion to act in these matters. If the word "shall" is used, the hands of the court will be fettered and it will not be in a position to discriminate between right and wrong. There may be cases in which the courts should be called upon and should be expected to use their discretion in a certain manner. They may refuse the relief granted by the other provisions of clause 33. But to enact that the court in all cases shall give such relief will be a negation of justice. Therefore, I have suggested that the word "shall" be replaced by the word "may".

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I think, there has been a misunderstanding. "Shall" really means that the court shall exercise its discretion, and in the exercise of its discretion it "may" do such-&-such a thing or give such-&-such instalments. Therefore,

the discretion is there even if the word "shall" is put in. If the word "may" is put in, it may be interpreted that the court may or may not at all exercise its discretion in respect of instalments.

The motion of Babu Nagendra Nath Sen that in clause 33 (*1*), in line 3, for the word "shall" the word "may" be substituted, was then put and lost.

Rai HARENDRA NATH CHAUDHURI: Sir, I beg to move that in clause 33 (*1*) (*b*), in lines 14-15, the words "without interest within a period not exceeding twenty years from the date of the decree" be omitted.

Mr. Speaker, Sir, in this sub-clause the court is given power to grant instalments in cases of money suits for 20 years and these again without any interest whatsoever. I beg to submit, Sir, that this is an absurd proposition. Think for a moment that in unsecured, and even "demand" loans the court is given the discretion to grant instalments extending over 20 years but at the same time without interest. If that be the case, there would be a standing circular not to pay up such debts. In that apprehension, I propose that these words be omitted. Even if these words be omitted, the court will still have the power to grant instalments but not instalments right up to 20 years without any interest: that will be the whole effect of this amendment if carried. I do not know what has persuaded the Hon'ble Mr. Suhrawardy to change his mind in this matter. This amendment which stood in his name was a rational proposition indeed; but why the Hon'ble Mr. Suhrawardy has taken leave of reason and common sense in not moving it, I do not understand. I hope he will kindly explain the position.

Mr. SURENDRA NATH BISWAS: Sir, in supporting the motion of my friend, Rai Harendra Nath Chaudhuri, I would request the Hon'ble Minister, Mr. Suhrawardy, and the members of the Coalition Party to look at sub-clause (*1*) (*b*) of clause 33 from the point of view of the money-lender. My friends will certainly agree that there must be necessity for borrowing and people will go to a money-lender for the purpose of borrowing money. Now, if the money-lender knows that there is a law that if the borrower does not repay the loan, the money-lender will have to go to court and the court will give instalments which may extend up to 20 years without bearing any interest, can we expect that the money-lender will feel inclined to lend money to the borrower? Can the borrower expect to get loans in such circumstances? If sub-clause (*1*) (*b*) is passed into law, no borrower will be inclined to repay the money to the money-lender unless and until the lender is forced to go to court and the court gives instalments which will extend over a long period without bearing any interest. Taking this view no money-lender will lend money to anybody. The result will be a great suffering

of the needy people. The necessity for borrowing will continue: the necessity is at present very great and we apprehend that it will be greater in the near future, because the economic condition of the country is very bad. Every person belonging to every stratum of society—the top, middle class, the middle middle class, the lower middle class, the agriculturists—all require borrowing money nowadays. Sir, if you permit me, I can read the contents of a letter which I have recently received from some agriculturists of my constituency. The signatories are Muslims and members of the scheduled castes——

Mr. SPEAKER: You need not read out the letter.

Mr. SURENDRA NATH BISWAS: All right, Sir. Government granted agricultural loan to 200 people out of 1,500 agriculturists of my union and the agriculturists were given Rs. 5 per family——

Mr. SPEAKER: Mr. Biswas, you are not discussing the Faridpur distress. You should come to the amendment under discussion.

Mr. SURENDRA NATH BISWAS: All right, Sir. There is necessity for borrowing in my union, but the people are not getting any money even by offering to sell their lands, in order to feed their wives and children. They are not getting any money although they are in dire need of it. They have been from door to door, but they have not got any loan. Now, Sir, if such a law is passed, no one will get any loan at any time. We cannot expect in view of this law that any money-lender will be induced to lend any money to a borrower. So, if they do not want that the channel of credit of the province should be absolutely choked to the detriment of the interests of peasants and other sections of the society, then, I hope, the Hon'ble Minister who is in charge of the Bill and the members of the Coalition Party will support the amendment of my friend, Rai Harendra Nath Chaudhuri.

I appeal to the members of the European Group to apply their mind to the repercussion of the proposed law upon the people of the rural areas. If they do so, they will learn that the rural people are in dire need of borrowing money every day of their life. Their every-day life depends on borrowing; but if such a law is passed, they will not get any loan. My European friends must have already noticed that the cry for rural credit is being raised in this House from session to session since 1st April, 1937, but Government have not yet prepared any scheme to supply credit to the agriculturists. They are very poor. They are not getting loans and, therefore, they are selling their cattle and portions of their lands. I can say without fear of contradiction that if the proposed law is passed, the remotest chance of getting loans will disappear and

the peasantry will have to transfer all their lands and become landless. In these circumstances, the honourable members of the European Group should seriously consider the situation that will arise if this law is passed; if they do so, I am sure, they will also support the amendment moved by my friend Rai Harendra Nath Chaudhuri.

Mr. JATINDRA NATH BASU: I support the amendment moved by Rai Harendra Nath Chaudhuri. The grounds are these. We are going to put on the statute book a law which will govern all monetary transactions between parties in this province. But the principle that is laid down in this particular clause 33 (*1*) is that in respect of ordinary transactions between parties you will be practically dealing with bankruptcy or liquidation proceedings. In a case of bankruptcy or when a company goes into liquidation, interest stops and then the assets have to be realised and dividends are paid sometimes promptly and sometimes in a belated manner and sometimes not at all. That is the principle you are introducing in the case of ordinary monetary transactions. There is a law of insolvency. If a man is not in a position to pay his debts, he places his cards on the table of the court and asks the court to take his property and to relieve him of his debts. You are introducing in ordinary every-day transactions a principle which no civilized law has ever introduced regarding such transactions. (Hear, hear from the Congress Benches.) If you want to have it declared by law that everybody who borrows is an insolvent have it by all means. You are in practice doing it by introducing this provision in the law. I must say that it is an extraordinary provision and it is a provision which after carefully scrutinising the laws on the subject, I have not found in any country in the world.

Babu NAGENDRA NATH SEN: The other day while speaking on clause 26, the Hon'ble the Minister who is piloting this Bill was pleased to quote some provisions of the British Money-lenders Act and he was also pleased to say that because such an identical provision was in the British Money-lenders Act, there would be no justification for our opposing the insertion of such a provision as is to be found in clause 26 of the Bengal Money-lenders Act. We were asked to be silenced by such a threat or something like that. Will the Hon'ble Mr. Suhrawardy point out any such provision in the British Money-lenders Act where there is any provision like this monstrous provision by which the amount of the decree shall, subject to such conditions as the court may impose, be payable without interest and within a period not exceeding 20 years? An individual may be a creditor, decree-holder or a bank or a loan company. Suppose the case of a bank or a loan company which transacts business by taking deposits of monies from depositors at a certain rate of interest. No person goes to deposit any money in a bank or a loan

company without any interest. Now, if a bank or a loan company or a private money-lender finds himself in a situation that after he has got a decree he has got to wait for 20 years for the realisation of his money —a very long period of 20 years during which he and his son may die and no interest will be forthcoming—it will be impossible for him to carry on his business. It should be done in a certain manner; so far as his own creditors are concerned, his own liabilities are concerned, he may be called upon to pay his creditors some rate of interest and he will be called upon to meet the liabilities. As my friend Mr. Jatindra Nath Basu has said, there is nowhere in the annals of any civilized country such a preposterous rule. If there is no such rule anywhere on the face of the earth, how is it that in poor Bengal where the rural credit is stated to be at its ebb and where money is not plentiful as in other countries, there should be such a provision by which a decree-holder will have to wait for 20 years and without interest and the court will have no discretion but will be compelled to grant and shall grant instalments. Uptil now we have not been treated by Mr. Suhrawardy with any reasons why he has not moved amendment No. 1160. In normal circumstances it is permissible for members of the opposition to put in amendments even if they do not move them. But when Government have tabled a motion it is their duty to move that motion. If no such amendment is moved, then it is a mere farce, a camouflage, for a responsible Minister of Government to table a motion like this. Knowing full well that the economic condition of the country will not bear the retention in the statute book of an undiluted provision as is contained in sub-clause (*b*) of clause 26, Mr. Suhrawardy was pleased to table his motion No. 1160, but at the fag-end of the day without giving us any reason, he has been pleased to declare that he is not going to move such an amendment. We are entitled to have some reasons and, therefore, I support the amendment of my friend Rai Harendra Nath Chaudhuri. It is a very fair, honest and equitable proposition and there should be no opposition from any part of the House.

Mr. C. MILLAR: I should like to address a very few words to this House on this amendment, because it appears to me extraordinary that it should not be favourably considered. If this amendment is not favourably considered the result would be this: that interest on unsecured loans would be abolished altogether. All that the debtor has to do to avoid paying any interest on his loan is to refuse to pay and make his creditor sue; then a decree is granted, there is no question about that, and on that decree no interest runs. I fail to see how the Legislature can seriously consider not accepting this amendment, because nobody is going to lend money under these circumstances. I should like the House to realise that without this amendment the purport of the Bill is the abolition of interest altogether. There are people who believe that this is desirable, but it can only be achieved at

the cost of not getting loans. With these very brief words, I should like to ask the House to reconsider what appears to me an absurd proposition.

Maulvi ABU HOSSAIN SARKAR: Sir, I beg to oppose the amendment moved by my friend Rai Harendra Nath Chaudhuri and I think that the Hon'ble Mr. Suhrawardy has done well in not moving this amendment. We are going to give some privileges to the debtors and now if this amendment is carried, the debtors will not get long-term instalments. At the same time they will be burdened with compound interest, because a decree is made for principal as well as interest. If after passing the decree interest is allowed to run, it will in effect allow the decree-holder to get compound interest. Therefore, I submit that if the House be willing to give some privileges to the debtors the House should not accept the amendment.

Mr. DHIRENDRA NATH DATTA: Sir, I support the motion that has been moved by my friend Rai Harendra Nath Chaudhuri. I support it in the interests of the debtors. We have already passed that in the case of a mortgage decree the court will be entitled to allow interest. That is very important. In the case of the mortgage decree, *i.e.*, in the case of secured loans the court will have the power to allow interest on the decretal amount however small it may be. There is absolutely no reason why a distinction should be made between a mortgage decree and a decree on an unsecured loan. If the court can have the power to allow interest on the decretal amount in the case of a mortgage decree, why should the court be debarred from allowing a small rate of interest on the decretal amount in the case of unsecured loans? I am quite sure that the court will not allow a large number of instalments. The court cannot allow a large number of instalments, if the decretal amount does not bear any interest however small it may be. It appears from the Bill itself, from section 33, that the intention of the Government was that in the case of the mortgage decree the court would allow interest at the rate of 3 per cent. per annum until realisation. But the court in the case of the mortgage decree can now allow interest at any rate. The intention of the Government was clear that in the case of the decretal amount 3 per cent. interest was considered to be reasonable. In the case of unsecured loans if no interest can be allowed, my submission before you is that the court will be loath to grant a large number of instalments. In the clause as it is, the court can order that the amount shall be repayable within a period not exceeding twenty years. Under the present law of the country, the court can grant instalments for a number of years, but a limitation has been put upon it. Will the court allow instalments for twenty years if no interest, however small it may be, is allowed to be put upon the decretal amount?

Maulvi ABU HOSSAIN SARKAR: What is the bar?

Mr. DHIRENDRA NATH DATTA: There is no bar. But no court will be so unreasonable as to allow a large number of instalments going up to twenty years without allowing interest on the decretal amount. (A VOICE FROM THE COALITION BENCHES: What would the court do now?) Please try to understand. The result will be this that it would be impossible to have unsecured loans. If any person goes to borrow money, the lender will in all cases demand security, will demand mortgage, because in the case of unsecured loans, if taken to a court, the court can pass a decree, but the decretal amount will not carry any interest and there will be instalments going up to twenty years. In such cases, the lenders will be very slow to advance money in the shape of unsecured loans. They will demand security in all cases. You are trying to benefit the debtors. Do you contend that in future there will not be any borrowing in this country and should not be any borrowing in this country? If there is to be borrowing, there should be facilities for getting money. If this Bill be passed into law, I am quite sure that in future no unnsecured loans will be allowed. In all cases, the lender will demand security. That will be the real upshot if this bill be passed into law. I hope, Sir, that the members of the Coalition Group and the Hon'ble Minister in charge of the Bill will give their utmost consideration to this matter. Let this matter be left to the discretion of the court. If they do not like to leave it to the discretion of the court, let them say that the decretal amount should carry a small rate of interest. I suggest that it should not exceed 3 per cent. per annum. Let it carry some interest. If it does not carry interest, it should be left to the discretion of the court as it has been left to the discretion of the court in the case of the mortgage decree My friend Mr. Abu Hossain Sarkar has probably not considered that in the case of the mortgage decree, it has been totally and fully left to the decision of the court. In the case of the mortgage decree, the court is entitled to allow any interest whatever.

Maulvi ABU HOSSAIN SARKAR: The court will not be unreasonable.

Mr. DHIRENDRA NATH DATTA: If the court is not likely to be unreasonable, why should it not be left to the discretion of the court in the case of unsecured loans? In this matter, you tie the hands of the court and you want the instalments to be spread over twenty years. Will the court allow the instalments? It will not allow it having regard to the provisions of the law. I am quite sure that no court

will be so unreasonable as to allow a large number of instalments. At the most, it will be one or two years. In all cases, the needy person will not be able to raise any unsecured loan. This will be the result. Please do consider the matter. As a matter of fact, the point that has been raised by Mr. Jatindra Nath Basu is absolutely reasonable. All these things we must take into consideration. We should not forget that there would be borrowing in future. If there is to be borrowing in future, we should look to the interests of debtors. As for myself, if there is a conflict between a creditor and a debtor, I am for the debtor, but in the interests of debtors, I think, in this case it should be left to the discretion of the court. If you do not like to leave it to the discretion of the court, you should say that interest not exceeding 3 per cent. may be allowed.

Dr. NALINAKSHA SANYAL: Sir, the question has been approached from different points of view and I am fully convinced that the House realises the serious implications of having the clause passed as it stands. There is just one aspect of the case which I should like the House, in addition to what it has already in possession, to consider. In the case of the secured loan, the creditor may have the satisfaction of at least in some future date getting the loan back because there is a security; whether that security will remain ample or not is a different question. In the case of an unsecured loan, on the contrary, the creditor has no guarantee as to when an instalment is provided he will get his money back or at any time whatever. That being the position it often happens that to grant instalments in the case of unsecuerd loans becomes, as it is, very difficult for the court,—a court which has got to deal with cases on the basis of substantial justice. If, in addition to this difficulty, it is enjoined under statutory obligation that, in cases of instalments the court cannot direct that interest should be levied, it would be so absurd that no court would probably think of granting instalments at all. In fact, I would submit that so far as loans without security are concerned, there should be greater facilities for the collection of a loan; more quick realisation of a loan leads to the rate of interest being lowered. As every student of Economics knows, if money circulates quick, the rate of interest demanded on that money can be kept down to a low figure. If we do not contemplate that the rate of interest that should be charged should go beyond 10 per cent. as has been here provided in clause 28, it is only fair that this 10 per cent. should be at least so arranged that it may be realised. Mr. Abu Hossain Sarkar has said that there would be compound interest if interest is allowed on the accumulated interest. I would submit that Mr. Sarkar probably has not applied his mind thoroughly to the question of compound interest. A compound interest with a period of rest multiplies and the interest is added over again to the original capital

and carries interest. In the case of the decretal amount the interest that will be levied will not be so levied with any periodicial rests, it will not be recurring. If a decree is given on the amount of interest outstanding, in no case can it be an exorbitant amount, because under section 28 we are going to provide that the amount to be allowed should never exceed the original capital, and we have conceded that it will not exceed the outstanding capital, so that in case these two provisions are there these will give substantial relief. If in addition to them a provision is made that on decree of unsecured debts no interest shall be payable, the result only will be that a debtor who has somehow or other managed to obtain an unsecured debt will just refuse to pay the money even after one or two years, because at any time if the creditor goes to court, he gets only 10 per cent. added to his capital, and this 10 per cent. added to his capital will be spread over 20 years without interest — (Mr. ABDULLA-AL MAHMOOD: Why do you assume that?) Because the law permits it —.

Mr. DEPUTY SPEAKER: Order, order. It is now time for prayer. The House stands adjourned for 20 minutes.

(The House was then adjourned for 20 minutes.)

(After adjournment.)

Dr. NALINAKSHA SANYAL: Mr. Speaker, Sir, before the adjournment I was explaining to the House the absurdity of clause 3(1)(*b*), and I was seeking to throw some new light on the amendment moved by Rai Harendra Nath Chaudhuri. I was trying to explain the fundamental difference between the character of a secured loan and unsecured loan.

While in the case of an unsecured loan the rate of interest that a debtor is prepared to pay is comparatively higher, the creditor expects a quicker return, and in documents of an unsecured loan there is no time mentioned ordinarily, and the debt is usually payable on demand; the fundamental character of an unsecured loan being that collection has got to be provided forthwith. The idea of allowing instalments in the case of an unsecured loan is a very novel idea—never known in the world of economics, and yet in view of the special circumstances of our country and in view of the economic difficulties in which our villagers are thrown, we would like to have instalments, and we want to provide instalments in the Bill, but at the same time we have to examine and very carefully consider the possibility of such a loan being granted at all, if along with such provision for instalments there is the stipulation that no interest will be payable. One friend of ours has given the hint that there must be some interest provided, and he would be satisfied with something like 3 per cent. interest. If society in

other respects would permit money-lending transactions being conducted with an interest of 3 per cent., I would certainly be very happy, and I would most gladly support the proposal of limiting the rate of interest to 3 per cent. Unfortunately, we ourselves in the proposed Bill have had to provide for a rate of 8 per cent. in the case of a secured loan. In the case of unsecured loans, the rate of interest that is thought to be more or less reasonable is 10 per cent.; that is the maximum. It is a truism that as between secured loans and unsecured loans, the rate must differ, and that in the case of an unsecured loan the rate payable must be higher. In the case of secured loans under section 33 (*1*) (*a*) we have left the discretion entirely with the Court to decide what would be the rate of interest payable on any instalment that is not paid in time. Under the usual practice at the present moment, that rate of interest will probably be 6 per cent. The Civil Procedure Code provides for a rate of interest up to 6 per cent. It is, therefore, unthinkable that whereas the rate of interest in the case of a secured loan would continue to be 6 per cent., there should be no rate of interest whatever in the case of a decree on unsecured loans; and even if there is a proposal for a rate of interest, that should be lower than the rate provided in the case of a secured loan.

I think that the crux of the amendment is contained in those two words "without interest." The amendment seeks to delete the restrictions both with regard to non-payment of interest as well as with regard to the periods of instalment. I submit, Sir, that if Government and the Coalition Party are prepared to have a compromise on this, they might as well retain the provisions for instalment and the period of instalment up to twenty years, but the stipulation about non-payment of any interest whatever may be dropped. If this suggestion is accepted, then, probably, this draft, which appears to us to be absolutely unpracticable and absurd, would have some meaning. I submit that if the Hon'ble Minister piloting the Bill is not in a position to give his decision just now, he may take time as he has taken time on other occasions. The House will not grudge him that time if he ultimately comes back with a proposal which at least will not look ridiculous to the people outside.

With these observations, Sir, I support the motion of Rai Harendra Nath Chaudhuri.

Mr. SPEAKER: In view of the suggestion which has been made by Dr. Sanyal and in view of the fact that I have been informed that Government propose to put in a modified draft, I suggest that further discussion of clause 33 be postponed till Tuesday next. I must, however, get notice of the amendment which Government propose to move by Monday at the latest, so that I can circulate it on that very day. Mr. Suhrawardy, will you kindly put in a modified draft or

sub-section (*3*) of clause 33 as also of the amendment which has been moved by Rai Harendra Nath Chaudhuri as also the points raised by him—I think that they are very pertinent points—by Monday at the latest?

Rai HARENDRA NATH CHAUDHURI: Sir, there is another amendment in my name, so far as that clause relates about the substitution, namely, No. 48 (new). Government may consider that amendment also.

The Hon'ble Mr. H. S. SUHRAWARDY: We shall consider that.

Mr. SPEAKER: Then we can take up clauses 34 and 34A?

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I want time to consider those clauses also.

Mr. SPEAKER: All right. But will it be possible for Government to give a modified draft some time to-morrow, because I want to circulate it to honourable members at the first opportunity?

The Hon'ble Mr. H. S. SUHRAWARDY: I will try to give it to-morrow.

Adjournment.

The House was then adjourned till 4-45 p.m. on Tuesday, the 20th June, 1939, at the Assembly House, Calcutta.

Proceedings of the Bengal Legislative Assembly assembled under the provisions of the Government of India Act, 1935.

THE ASSEMBLY met in the Assembly House, Calcutta, on Tuesday, the 20th June, 1939, at 4-45 p.m.

Present:

Mr. Speaker (the Hon'ble Khan Bahadur M AZIZUL HAQUE, C.I.E.) in the Chair, 8 Hon'ble Ministers and 202 members.

STARRED QUESTIONS

(to which oral answers were given)

Incident at Gournadi Mosque, Bakarganj.

***512. Mr. ABDUL WAHAB KHAN:** (*a*) Is the Hon'ble Minister in charge of the Home Department aware—

(*i*) that certain persons entered into the Gournadi Mosque in the district of Bakarganj and threw a copy of the Holy Quoran into the pond close by in March last, and

(*ii*) that a letter enclosing a cutting of the press report on the subject was addressed to the Hon'ble Minister requesting him to make an inquiry into the matter?

(*b*) If the answer to (*a*) (*ii*) is in the affirmative, will the Hon'ble Minister be pleased to state what action, if any, was taken in the matter?

(*c*) If no action was taken, will the Hon'ble Minister be pleased to state the reasons therefor?

(*d*) Will the Hon'ble Minister be pleased to state why no reply was vouchsafed to the letter referred to in (*a*) (*ii*)?

(*e*) Have the culprits been detected?

MINISTER in charge of the HOME DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) (*i*) Yes.

(*ii*) I have no recollection of such a letter.

(*b*) to (*d*) Do not arise.

(*c*) Yes. The boys concerned confessed at once. The matter was amicably settled locally, the inhabitants refusing to allow their cordial relationships to be broken by the childish folly of boys aged 5, 6 and 8 respectively.

Mr. ABDUL WAHAB KHAN: Will the Hon'ble Minister be pleased to state if he is aware that shortly after the Muslims forgave and forgot the incident, some adult young men—one Pijush Kanti Banerjee, a student of Class IX, and also Haripada Basak, a student of the local High School—are alleged to have entered and desecrated the self-same mosque——

Mr. SPEAKER: I am afraid, firstly, this is not a question and, secondly, it does not arise out of this question. You may ask any question relating to this, but if you refer to a further incident, you have to put another question.

Mr. ABDUL WAHAB KHAN: Sir, my point is this——

Mr. SPEAKER: I understand your point and you will realise that for the time being, I have to keep order in this House.

Mr. ABDUL WAHAB KHAN: Will the Hon'ble Minister be pleased to state if he is aware that of the three boys concerned, two were sons of the local Sanitary Inspector and the third was the son of the local district board compounder——

Mr. SPEAKER: This question does not arise, as the original question is not concerned with the point as to who were the fathers of the children.

Report on conduct of Deputy Superintendent, Dacca Medical School.

*513. **Mr. TARINICHARAN PRAMANIK:** (*a*) Will the Hon'ble Minister in charge of the Public Health and Medical Department be pleased to state whether any decision has been arrived at on the report of Mr. Tyson, regarding the Dacca Medical School?

(*b*) Have the Government decided to publish the decision?

(*c*) What action, if any, do the Government intend to take on the report?

MINISTER in charge of the PUBLIC HEALTH and MEDICAL DEPARTMENT (the Hon'ble Mr. Tamizuddin Khan): (*a*) and (*c*) Government have carefully considered Mr. Tyson's report and have decided that no action is called for.

(*b*) No.

Mr. ATUL KRISHNA GHOSE: With reference to reply (*b*), will the Hon'ble Minister be pleased to explain what are the reasons for not publishing the report?

The Hon'ble Mr. TAMIZUDDIN KHAN: The report is not intended to be published in the public interest.

Mr. ATUL KRISHNA GHOSE: Will the Hon'ble Minister be pleased to state if he is aware of the fact that a large number of people are anxious to know the contents of that report?

The Hon'ble Mr. TAMIZUDDIN KHAN: I am not aware of this.

Mr. ATUL KRISHNA GHOSE: Will the Hon'ble Minister be pleased to consider the desirability of publishing that report in view of the sentiments expressed by the people in different newspapers.

The Hon'ble Mr. TAMIZUDDIN KHAN: No, Sir.

Complaints of girl students of Dacca Medical School.

***514. Dr. NALINAKSHA SANYAL:** Will the Hon'ble Minister in charge of the Public Health and Medical Department be pleased to state—

(*a*) what are the findings of the enquiry made into the complaints of certain girl students of the Dacca Medical School against the Deputy Superintendent of the School a few months ago;

(*b*) what action has Government taken on those findings or on other evidence in this connection;

(*c*) what is the post now held by the Medical Officer against whom the complaints were made; and

(*d*) when is this officer due to retire from service?

The Hon'ble Mr. TAMIZUDDIN KHAN: (*a*) The allegations against Khan Sahib Dr. Maizuddin Khan were six in number. Five of them were found to be disproved or not proved in respect either of the facts or of the motive. One allegation was held to be proved but the Magistrate considered it to be of a trivial nature. The Magistrate arrived in most cases at only tentative conclusions.

(*b*) After carefully considering the above findings Government came to the considered opinion that no action was called for against the Khan Sahib.

(c) The officer is holding the post of Teacher of Materia Medica and is also the Deputy Superintendent of the School.

(d) In July, 1941.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state what were the allegations against the Khan Sahib?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I have nothing further to add on that point.

Dr. NALINAKSHA SANYAL: Sir, am I not entitled to obtain further information on the point?

Mr. SPEAKER: You are entitled to put questions.

Dr. NALINAKSHA SANYAL: Unless it is in the public interest —the only ground on which he can refuse to answer——

The Hon'ble Mr. TAMIZUDDIN KHAN: I have already said that the publication of the report will not be in the public interest, and if I go into the allegations, Sir, that will be against the decision that the Government have already arrived at, namely, that the report should not be published.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that one of the allegations which was proved to be true was misconduct with girl students of the school?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, the answer is in the negative.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that a certain girl student involved in the case has been given transfer to the Campbell Medical School and she has been given a special stipend so that she may not raise any objection?

The Hon'ble Mr. TAMIZUDDIN KHAN: I am not aware of this.

Mr. ABDULLA-AL MAHMOOD: Since five of the allegations have been disproved or not proved, will the Hon'ble Minister be pleased to state what action, if any, has been taken against the complainants?

The Hon'ble Mr. TAMIZUDDIN KHAN: No action has been considered necessary.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to consider the desirability of placing the matter before the court so that the conduct of the doctor may be upheld and his reputation may be established by an open trial, if he has any?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, if Government have to accept this suggestion of my honourable friend, Government will go entirely out of their own way.

Babu NAGENDRA NATH SEN: Will the Hon'ble Minister be pleased to state if these allegations were not made by the public, and if they were made by the public, what objection the Hon'ble Minister may have in disclosing them before the public?

The Hon'ble Mr. TAMIZUDDIN KHAN: Sir, I could not follow the question.

Babu NAGENDRA NATH SEN: The question is whether the allegations were not made by the public or the guardians of the students?

The Hon'ble Mr. TAMIZUDDIN KHAN: The question is about the complaints that were made against the doctor by some girl students.

Babu NAGENDRA NATH SEN: If the allegations were made by the girl students, will the Hon'ble Minister be pleased to state what objection he may have in placing them before the public?

The Hon'ble Mr. TAMIZUDDIN KHAN: The objections are based on public interest.

Maulvi ABDUL BARI: In view of the fact that some of the allegations were proved to be false, will the Hon'ble Minister be pleased to state whether those allegations were made by the girl students of that school?

The Hon'ble Mr. TAMIZUDDIN KHAN: All the allegations were made by the girl students of the school and that is the only subject-matter of this question.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that in the course of the enquiry certain matters were revealed which showed that the records of the hospital as well as of the school were tampered with?

The Hon'ble Mr. TAMIZUDDIN KHAN: That was not the subject-matter of the original question, and I submit that it does not strictly arise.

Dr. NALINAKSHA SANYAL: May I submit, Sir, that this was one of the matters before the Enquiry Committee which was revealed during the enquiry?

Mr. SPEAKER: I am not supposed to know it and so you cannot put this question.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that in the course of the evidence that was placed before the Enquiry Officer, certain records of the Medical School were shown which showed corrections and false entries?

Mr. SPEAKER: I am afraid, Dr. Sanyal, you cannot put the question in the form in which you have done.

Dr. NALINAKSHA SANYAL: May I enquire the basis on which the fiflidings of Mr. Tyson were made?

The Hon'ble Mr. TAMIZUDDIN KHAN: He made an enquiry, he recorded evidence and on that he——

Maulvi ABDUL BARI: In the interest of discipline and justice, will the Hon'ble Minister think it desirable to start proceedings under sections 193, Indian Penal Code, against these girl students?

Mr. SPEAKER: That question does not arise.

Babu NAGENDRA NATH SEN: Will the Hon'ble Minister be pleased to state the conclusions of Mr. Tyson with regard to the allegations and whether Government have accepted them *in toto* or they have differed from his conclusions?

The Hon'ble Mr. TAMIZUDDIN KHAN: I have already stated the conclusions of the Magistrate in my answer

Maulvi ABUL HASHIM: In view of the fact that most of the cases of this nature are engineered by some political parties for political motives, will the Government be pleased to state from the report submitted to them whether the complaints were made by the girls on their own initiative or they were engineered by some political parties?

Mr. SPEAKER: That question does not arise.

Babu NAGENDRA NATH SEN: Will the Hon'ble Minister be pleased to state whether Government have accepted the conclusions of Mr. Tyson?

The Hon'ble TAMIZUDDIN KHAN: The conclusions are here and Government have decided that no action is called for.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that during the course of enquiry of Mr. Tyson certain evidence was given from the records of the Medical School concerned?

Mr. SPEAKER: I am afraid you cannot ask any detailed question. You can ask any definite question on the subject-matter under discussion. The detailed proceedings of the enquiry are not the subject-matter of the question.

Dr. NALINAKSHA SANYAL: The finding is the subject-matter of the enquiry. I have already asked on what basis the finding was made and the reply was "on the basis of certain evidence collected." Now I am taking up——

Mr. SPEAKER: That basis is not the subject-matter of the question.

Sj. NARENDRA NATH DAS GUPTA: There is a strong feeling against that doctor, and also Government have not absolved him from the charges. Does the Government think it desirable to transfer that officer from that school?

The Hon'ble Mr. TAMIZUDDIN KHAN: Government do not consider it necessary to transfer the doctor from the school on the basis of Mr. Tyson's report. But any officer of Government may be transferred from his present position in the exigency of public service.

Babu NAGENDRA NATH SEN: Will the Hon'ble Minister be pleased to state how long Khan Sahib Dr. Maizuddin Khan has been occupying this post of Deputy Superintendent?

The Hon'ble Mr. TAMIZUDDIN KHAN: For a very long time.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that one of the findings of Mr. Tyson was that the copy of the routine countersigned by Dr. Maizuddin Khan

submitted before that officer was not correct and on that routine the 4th March, 1935, which was a holiday, was declared as a day on which certain students attended the school?

The Hon'ble Mr. TAMIZUDDIN KHAN: That was not the subject-matter of the enquiry. In the course of evidence Mr. Tyson had gone into many things. I am not in a position to say everything that the Magistrate entered into in the course of his enquiry.

Dr. NALINAKSHA SANYAL: I am asking a specific question relating to findings. It is perfectly clear that I am now asking a question about the findings. I am wanting to know if one of the findings of Mr. Tyson was that the routine submitted before him countersigned by Dr. Maizuddin Khan, purporting to detail the working hours of the students, was not correct and that there have been interpolations—a batch from which roll Nos. 17 and 23 of the routine——

Mr. SPEAKER: You can ask general questions. You cannot ask a definite question on the subject-matter of the routine.

Dr. NALINAKSHA SANYAL: One of the subject-matters of the routine which was submitted before Mr. Tyson was not accepted by Mr. Tyson as correct.

The Hon'ble Mr. TAMIZUDDIN KHAN: That was not at all a subject for enquiry, and there was no finding of the Magistrate on that point. I think the Magistrate only came to findings on the allegations that were made against the doctor. In the course of the enquiry many things might come to the notice of the Magistrate and he might have made observations, but those observations cannot be said to be the findings of the Magistrate on the allegations that were made by the girls.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that the Magistrate gave a detailed report of the evidence as well as of the conclusions that he arrived at from the evidence?

The Hon'ble Mr. TAMIZUDDIN KHAN: Yes.

Maulvi ABDUL BARI: Will the Hon'ble Minister be pleased to state if Mr. Tyson found some of the statements to be false, some of the documents forged and some school documents tampered by the partisans of the girls?

The Hon'ble Mr. TAMIZUDDIN KHAN: I do not like to answer this question, because I have already said that in the public interest I am not prepared to publish the report.

UNSTARRED QUESTIONS

(to which answers were laid on the table)

Contribution of Union Boards to Arambagh Exhibition Funds.

251. Mr. DHIRENDRA NARAYAN MUKERJI: (*a*) Will the Hon'ble Minister in charge of Home (Appointment) Department be pleased to state—

(*i*) whether an Industrial, Agricultural and Health Exhibition was held at Arambagh during the month of March, 1939;

(*ii*) whether the Subdivisional Magistrate of Arambagh was the President of the said Exhibition Committee;

(*iii*) whether the Subdivisional Magistrate of Arambagh collected funds for the Exhibition from the people of Arambagh;

(*iv*) whether the Subdivisional Magistrate wrote officially as the Subdivisional Magistrate and not as a President of the Exhibition Committee to all the Presidents of Union Boards asking every Union Board of the subdivision to contribute Rs. 10 to the Exhibition Committee; and

(*v*) whether it is a fact that all the 40 Union Boards in the subdivision contributed Rs. 10 each to the Exhibition Committee without the previous sanction of the Union Boards in meeting?

(*b*) If the answer to (*a*) (*v*) is in the affirmative, what steps, if any, do the Government propose taking for the refund of the money spent from the Union funds?

The Hon'ble Khwaja Sir NAZIMUDDIN: (*a*) (*i*) and (*ii*) Yes.

(*iii*) The Subdivisional Officer as President of the Exhibition Committee and Babu Keshab Chandra Mandal, Pleader, as Secretary of the Committee issued appeals for contributions on behalf of the Exhibition Committee.

(*iv*) It was settled in a public meeting in which representatives of the Union Boards were present that the Subdivisional Union Board Conference would be held in the Exhibition *pandal* and that Union Boards would pay Rs. 10 for expenses. Babu Keshab Chandra Mandal, Secretary, wrote to the Presidents to that effect. As the matter related to a Union Board Conference, a letter was also sent by the Subdivisional Officer to the Presidents, Union Boards, requesting them to attend the Conference and also to pay Rs. 10 for the expenses of the Conference.

(v) All the Boards paid Rs. 10. It is not known if all the Boards contributed without previous sanction of the Boards in meeting. Information available shows that some Boards have passed the expenditure in meeting and others are about to do so.

(b) Does not arise.

Purchase of furniture and loud-speaker equipments for Bengal Legislative Building.

252. Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister in charge of the Home Department be pleased to state—

(a) the procedure adopted for the purchase of furniture and loud-speaker equipment for the Bengal Legislative Building;

(b) whether tenders were invited for the supply—

(i) of furniture, and

(ii) of microphone and loud-speaker equipment for the Bengal Legislative Chamber;

(c) if so, the names of firms and their rates in each case during the period from 1st April, 1937, to 31st December, 1938;

(d) whether lowest tenders were accepted in each case;

(e) if no tenders had been called, the reason for the same;

(f) whether demonstrations had been given by any or all of the tenderers for the equipments supplied or proposed to be supplied; and

(g) if so, what were the results of such demonstrations in each case?

The Hon'ble Khwaja Sir NAZIMUDDIN: (a) The Bengal Legislative Building, in addition to providing accommodation for the two Houses of the Bengal Legislature, contains the Bengal Legislative Assembly Department, the Bengal Legislative Council Department and the Legislative Department of the Government of Bengal. The procedure generally observed for the purchase of furniture is that proposals are submitted to Government and, if approved, tenders are called for. The purchase of loud-speaker equipment being a technical matter arrangements for demonstration and purchase were made by the Communications and Works Department in consultation with Mr. Speaker.

(b) Yes.

(c) So far as the Bengal Legislative Assembly Department are concerned it is understood that tenders were invited by the Communications and Works Department for certain articles of furniture and that the

actual purchases were made by the Bengal Legislative Assembly Department on the recommendation of the Communications and Works Department. If the hon'ble member requires details of these transactions he should address himself to the Bengal Legislative Assembly Department.

The specifications tendered for loud-speaker equipment varied in scope so much that a strict comparison of prices was not possible, but on approximation the comparative prices may be stated as follows:—

	Rs.
Associated Electrical Industries	... 2,496
Radio Supply Stores	... 2,505
Chicago Telephone and Radio Company	... 2,896
The General Electric Company (India)	... 2,987
The Philips Electric Company	... 3,500
The Standard Telephone and Cable, Limited	... 3,979

(*d*) No. In some cases higher tenders were accepted as the difference in cost was very small and it was thought that a better quality article would be supplied.

(*e*) Does not arise.

(*f*) Yes, by two such tenderers.

(*g*) Of the two firms, the one whose tender was the higher demonstrated a quality which more than justified purchase being made at the higher price.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister who has cared to reply to it but who is not in charge be pleased to state——

Mr. SPEAKER: I am afraid, Dr. Sanyal, you do not know the exact administrative arrangements. Sir Nazimuddin is in charge of the question, and you must put your question directly to him.

Dr. NALINAKSHA SANYAL: He may be the channel of communication so far as the Assembly is concerned, but so far as the members are concerned they must ask their questions to the department concerned.

Mr. SPEAKER: It is not a question about the Assembly. I am saying that you may ask your question to the Minister, whoever may be in charge.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister whoever is in charge be pleased to state if it is a fact that the Superintendent of the Electrical Division placed orders for the purchase of the loud-speakers on behalf of the Assembly Department and not the Assembly Department as stated in the answer?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am afraid I stand by the answer that has been given here.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if he is aware that by circular Nos. 2999 to 3004 of 20th July, 1938 (the last date of tender was declared as noon—, 25th July 1938). Mr. Vincent, Superintendent of the Electrical Division, invited tenders for the purchase of loud-speakers for the Assembly?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would refer the honourable member to answer (c). So far as the Bengal Legislative Assembly Department are concerned, it is understood that tenders were invited by the Communications and Works Department for certain articles of furniture and that the actual purchases were made by the Bengal Legislative Assembly Department. The answer is there.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that of the tenderers mentioned in the list, the demonstration was given in this hall by only one firm, namely, by the Chicago Telephone and Radio Co. and by no other firm?

The Hon'ble Khwaja Sir NAZIMUDDIN: The demonstration was given by two firms and not by one.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to give the names of those two firms?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would refer the honourable member to answer (c). The names of two tenderers are the Chicago Telephone and Radio Co. and the Standard Telephone and Cable Company, Limited.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact hat the Chicago Telephone and Radio Co., was the only company that gave demonstration inside the hall attending the meetings, whose apparatus we had seen at work for about two weeks?

The Hon'ble Khwaja Sir NAZIMUDDIN: Both the companies.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state the date when the other company, namely, the Standard Telephone and Cable Co., Ltd., gave demonstration in the Assembly while the Assembly was in session?

The Hon'ble Khwaja Sir NAZIMUDDIN: As regards the date, I ask for notice.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that the Chicago Telephone and Radio Co., is an Indian-owned company, whereas the Standard Telephone and Cable Co., Ltd., is owned by Europeans?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, as far as the details are concerned in this connection if the hon'ble member will apply to the Bengal Legislative Assembly Department, they will be able to give him all the particulars.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state what recommendation, if any, was sent to the Superintending Engineer, Public Works Department, Mr. Vincent, regarding the respective demonstrations of the two firms mentioned?

The Hon'ble Khwaja Sir NAZIMUDDIN: As I have said, over and above what has been stated here, for details, if the honourable member will put further questions to the Bengal Legislative Assembly Department they will be answered.

Dr. NALINAKSHA SANYAL: This is only shirking the question. I submit that this question was sent to your department as early as January, 1939. To-day is June. On the 11th January I got from your department, Sir, the question as it was admitted and in that the question was addressed to the Communications and Works Department. Since the present address has been changed by your department, it is not my responsibility.

Mr. SPEAKER: No, it has been done by Government.

Dr. NALINAKSHA SANYAL: That being the position, I submit that full information in regard to this ought to have been in possession of the hon'ble member; otherwise, it will be extremely unfair to me at the fag end of the whole session, after five months, to give this half-complete answer and advise me to put further questions to the Bengal Legislative Assembly Department which obviously is a department which I do not want to address, because as members of the Assembly,—it will not be in parliamentary form—we do not want to bring the

Assembly Department on the floor of the House. In this particular case I submit that neither the Secretary of the Bengal Legislative Assembly Department nor your goodself had anything to do with the spending of money. I claim as a member of the Legislature and as one who has got to do with the budgeting——

Mr. SPEAKER: What is your question?

Dr. NALINAKSHA SANYAL: My question is whether it is a fact that of the two firms that gave demonstrations, one actually gave demonstration in the Assembly Hall and the other never gave demonstration in the hall itself when the Assembly was in session?

The Hon'ble Khwaja Sir NAZIMUDDIN: There is no question of shirking the answer. I have already stated whatever information I have got.

Mr. SPEAKER: His specific point is that both firms did not give demonstrations in the Assembly Hall when the Assembly was in session.

The Hon'ble Khwaja Sir NAZIMUDDIN: I do not know.

Dr. NALINAKKSHA SANYAL: What is the nature of the other demonstration?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state which firm was ultimately given the order? We have got a list of tenderers, and we find that there have been lowest and highest tenders. Is it a fact that the order was given to the highest tenderer?

The Hon'ble Khwaja Sir NAZIMUDDIN: I would refer the hon'ble member to answer (*viii*).

Mr. SPEAKER: I am afraid, Sir Nazimuddin you are not referring to the answer as it is printed.

The Hon'ble Khwaja Sir NAZIMUDDIN: The reply is that of the two firms, the one whose tender was the higher demonstrated a quality which more than justified purchase being made at the higher price.

Babu NAGENDRA NATH SEN: What is the name of that firm?

The Hon'ble Khwaja Sir NAZIMUDDIN: The Standard Telephone and Cable Co., Ltd.

Dr. NALINAKSHA SANYAL: That is the firm which tendered at the highest rate.

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that the Superintending Engineer, Public Works Department, visited the office of the Chicago Telephone and Radio Co. and suggested something, failure of which rendered them this penalty of not having got the order?

The Hon'ble Khwaja Sir NAZIMUDDIN: I strongly deny that.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state if it is a fact that Mr. Vincent saw Mr. Ram of the Chicago Telephone and Radio Co. in his office?

Mr. SPEAKER: I am afraid Dr. Sanyal, the proper place for this is not this House.

Dr. NALINAKSHA SANYAL: It is scandalous.

Mr. SPEAKER: I quite agree that if the allegation is correct it is more than that, but what I say is the proper remedy is that you should send whatever information you have for a proper enquiry and investigation, because all that can be done now is a mere affirmation or a denial and nothing further.

Dr. NALINAKSHA SANYAL: I submitted this question long before the budget session only with a view to elicit information before the budget was presented so that I might have an opportunity of going into it thoroughly, but this question was shelved. Will the Hon'ble Minister be pleased to state if Government had made sufficient investigation to satisfy themselves that this increase of Rs. 1,100 over the price of the other firm was justified?

The Hon'ble Khwaja Sir NAZIMUDDIN: The orders were placed in consultation with Mr. Speaker and on the basis of demonstration given here.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be surprised to know that the Speaker did not recommend any particular firm in this connection?

The Hon'ble Khwaja Sir NAZIMUDDIN: I am not aware of it.

Dr. NALINAKSHA SANYAL: In that case will the Hon'ble Minister be pleased to withdraw the reflection made on the Speaker?

Mr. SPEAKER: That is not necessary. There was no reflection on the Speaker or his department.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state with regard to the purchase of furniture which are the firms that tendered during last year?

The Hon'ble Khwaja Sir NAZIMUDDIN: I ask for notice as far as that is concerned.

Dr. NALINAKSHA SANYAL: Notice was given six months ago.

The Hon'ble Khwaja Sir NAZIMUDDIN: I want notice as regards the names of firms

Dr. NALINAKSHA SANYAL: My difficulty is that my quota has been exhausted and therefore you will not allow me to follow it up.

The Hon'ble Khwaja Sir NAZIMUDDIN: On this question you may waive the rule and allow the honourable member. There is no objection to any further questions being put by the honourable member on this subject, and we are even prepared to accept short notice for them

Mr. JOGESH CHANDRA GUPTA: But not to reply.

The Hon'ble Khwaja Sir NAZIMUDDIN: We will await the question of the honourable member. If the honourable member will give details, we will reply.

Dr. NALINAKSHA SANYAL: Will the Hon'ble Minister be pleased to state the date by which the equipment was required to be supplied and the date by which the other firm, the Standard Telephone and Cable Co., Ltd ,was permitted to supply?

Mr. SPEAKER: Dr. Sanyal, I think the best thing would be, so far as this loud-speaker business is concerned, you had better see me in my chamber, and I will give you all the facts as far as the Assembly Department is concerned, so that you may suitably frame your questions on the basis of those facts.

Dr. NALINAKSHA SANYAL: Sir, I would certainly welcome the opportunity, but so far as the Government Department is concerned——

Mr. SPEAKER: I am not suggesting anything about the Government Department. I am saying simply that so far as the Bengal Legislative Assembly Department is concerned, I shall give you all the information.

Dr. NALINAKSHA SANYAL: Is it a fact that when the tender was called in July, that is on the 20th of July, the tenderers were asked to supply from stock for immediate delivery because the Assembly was going to meet very soon?

The Hon'ble Khwaja Sir NAZIMUDDIN: I submit that al questions may be put down by the honourable member and Government are prepared to answer them and will not insist on a question of notice.

Mr. SPEAKER: I think that would be better.

Dr. NALINAKSHA SANYAL: About the furniture also?

Mr. SPEAKER: Yes.

Dr. NALINAKSHA SANYAL: I submit, here it becomes a no man's property. When a question of this character comes up, the Assembly Department shirks its own responsibility and Government say that it has been done at the instance of the Speaker. I would, therefore, like to know if Government would be prepared to lay their cards before us.

Mr. SPEAKER: The Assembly Department did not shirk its responsibility.

Babu NARENDRA NARAYAN CHAKRABARTY: সভাপতি মহাশয়, প্রশ্নোত্তরের সময় মাননীয় মন্ত্রী মহাশয় যাহা ব'লেছেন ; তাতে কোরে আমাদের মনে হয় এই পরিষদের সুনাম বিশেষ ক'রে সভাপতির সুনাম—সভাপতি মহাশয় এমন একটা তদন্ত কমিটি গঠন কর্‌বার অনুমতি দান করুণ যাতে নাকি এই সভাতেই এ বিষয়টার চূড়ান্ত নিষ্পত্তি হ'তে পারে। আমাদের সুনামের পক্ষে এবং পরিষদের সুনামের পক্ষে এটা অত্যন্ত আবশ্যক।

Mr. SPEAKER: As a matter of fact, the specifications were called for by the Public Works Department and we were not concerned with them at all. That question does not arise.

Babu NARENDRA NARAYAN CHAKRABARTY: সভাপতি মহাশয়, মাননীয় মন্ত্রী মহাশয় আপনার নাম এর মধ্যে জড়িয়ে দিয়েছেন সেই জন্য আমাদের আপত্তি।

Mr. SPEAKER: Yes.

GOVERNMENT BILL.

The Bengal Money-lenders Bill, 1939.

Mr. SPEAKER: Honourable members will notice that I have tried to prepare a copy of the Bill carried so far, and there is only one point to which I might draw your attention, *viz.*, section 20. If you turn to line 4 of that section, namely, passing an order on the money-lender for an offence under section 39, that section 39 will require a consequential change. I think this copy will be very helpful to the members and will give an idea as to how far we have proceeded and how we can proceed from to-day onwards with the Bill.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I think that I ought to tell the honourable members as to what the attitude of Government is in respect of certain sections, particularly sections 28, 29, 33 and the other section in regard to which notices of amendments have been given except section 34, so that the honourable members opposite may not be taken unawares as regards the intention of the Government in respect of the amendments which I have tabled. In regard to section 28 (1) (*a*), Sir, I do not propose moving amendments Nos. 801-831 which deal with the question of abolition——

Dr. NALINAKSHA SANYAL: Would it not be convenient to take up clause 33 first and then come up to the other clauses?

Mr. SPEAKER: Let us finish clause 33 first.

The Hon'ble Mr. H. S. SUHRAWARDY: That is what I am trying to do. I want to give them an idea so that they can make up their minds and not say that they want time to consider the matter

Mr. SPEAKER: If you give a list of what you want to move and what you do not want to move that will facilitate business.

The Hon'ble Mr. H. S. SUHRAWARDY: I think, Sir, if I can just explain here, this will not be at all necessary.

Mr. SPEAKER: I think it would be simpler if you tell us what changes you want to make in the Bill.

The Hon'ble Mr. SUHRAWARDY: Sir, with regard to section 29

Mr. SPEAKER: No change in section 28?

The Hon'ble Mr. H. S. SUHRAWARDY: No, Sir. With regard to section 29 we propose to make a change to the effect that there will be no interest on the decretal amount only in respect of past loans; in respect of future loans the amendment is to the effect that 6 per cent. may be granted on the principal sum adjudged, provided that the principles underlying section 28 (*1*) (*a*) are not infringed, *viz.*, that the principal and the interest do not exceed twice the principal.

Then, there is an amendment, Sir, which I have put in with regard to section 33 (*b*) (*ii*), and then I shall move that section 37(*b*) be omitted.

Mr. SPEAKER: I think we can proceed on this basis.

Dr. NALINAKSHA SANYAL: And no change in section 34?

The Hon'ble Mr. H. S. SUHRAWARDY: So far as section 34 is concerned, I am not going to take it to-day.

Mr. SPEAKER: I think we can take up clause 32 now.

The Hon'ble Mr. H. S. SUHRAWARDY: I beg to move the proviso which will run thus:—

"That to clause 32 the following proviso be added, namely:—

> Provided that nothing in this section shall debar a lender from recovering the costs of investigating title, of stamp duty and registration of documents and other usual out-of-pocket expenses in cases where the agreement includes a stipulation that property is to be given as security or by way of mortgage or the cost of stamp duty and registration of documents in the case of unsecured loans, if both parties have agreed to such expenditure and the reimbursement thereof, nor from recovering such costs, charges or expenses as are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force."

This, Sir, is incorporating the amendment that has been moved by Mr. J. C. Gupta.

Dr. NALINAKSHA SANYAL: I beg to submit, Sir, that this reinstatement of the first proviso was already put to the House and carried and thereafter a subsequent proviso was——

The Hon'ble Mr. H. S. SUHRAWARDY: No, it was not put to the House and was not carried.

Mr. SPEAKER: That proviso was not put to the House. Mr. J. C. Gupta only moved his amendment.

I shall now put amendment No. 1100B to the House.

The motion of the Hon'ble Mr. H. S. Suhrawardy that to clause 32 the following proviso be added, namely:—

> "Provided that nothing in this section shall debar a lender from recovering the costs of investigating title, of stamp duty and registration of documents and other usual out-of-pocket expenses in cases where the agreement includes a stipulation that property is to be given as security or by way of mortgage or the cost of stamp duty and registration of documents in the case of unsecured loans, if both parties have agreed to such expenditure and the reimbursement thereof, nor from recovering such costs, charges or expenses as are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force."

was then put and agreed to.

Mr. SPEAKER: That disposes of all the other amendments proposed to clause 32. We shall now take up clause 33.

Dr. NALINAKSHA SANYAL: But the other amendments have got to be formally put.

Mr. SPEAKER: They do not arise since this motion, namely, No. 1100B, has been carried.

Dr. NALINAKSHA SANYAL: Still, Sir, the two amendments that have been moved have got to be put to the House formally.

Mr. SPEAKER: All right, I have no objection. There are two amendments—one has been moved by Rai Harendra Nath Chaudhuri and the other by Mr. J. C. Gupta.

Mr. JOGESH CHANDRA GUPTA: Sir, I beg leave of the House to withdraw my motion.

The motion of Mr. Jogesh Chandra Gupta that the following proviso be added to the amendment No. 1094-1100 standing in the name of the Hon'ble Mr. H. S. Suhrawardy and others to clause 32 of the Bengal Money-lenders Bill, 1939:—

> "Provided further that in the case of unsecured loans registration charges and stamp duties shall not be deemed as costs, charges or expenses incidental or relating to the granting of such loans."

was then by leave of the House withdrawn.

Clause 33.

Mr. SPEAKER: Since there is nobody on behalf of Rai Harendra Nath Chaudhuri to withdraw his amendment, I must put it to the House.

Mr. JOGESH CHANDRA GUPTA: Sir, on behalf of Rai Harendra Nath Chaudhuri I beg leave of the House to withdraw his amendment.

The motion of Rai Harendra Nath Chaudhuri that in clause 33(*1*)(*b*), in lines 14-15, the words "without interest within a period not exceeding twenty years from the date of the decree" be omitted, was then by leave of the House allowed to be withdrawn by Mr. Jogesh Chandra Gupta.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that in clause 33(*1*)(*b*), line 1, after the words "in suits in respect of loans" the words "*advanced before the commencement of this Act*" be inserted.

Sir, this is in consonance with the definition of the word "loan." If a decree is given without interest, then it is feared that no money-lender will advance any money in future because all that the lender will have to do will be not to pay. Therefore, we desire to make this applicable only to past transactions.

The motion of the Hon'ble Mr. H. S. Suhrawardy that in clause 33(*1*)(*b*), line 1, after the words "in suits in respect of loans" the words "*advanced before the commencement of this Act*" be inserted, was then put and agreed to.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that in clause 33(*1*)(*b*), lines 12 to 19, for the words beginning with "that the amount of the decree" and ending with "the amount of the decree" the following be substituted, namely:—

> "That the amount of the decree shall, subject to such conditions as the court may impose, be payable without interest in such number of annual instalments, on such dates and within such period not exceeding twenty years as the court thinks fit having regard to the circumstances of the plaintiff and the defendant or the decree-holder and the judgment-debtor and the amount of the decree, and that, if default is made in making payment of any instalment, that instalment and not the whole of the decretal amount shall be recoverable."

Babu NAGENDRA NATH SEN: Sir, there is amendment No. 1159C standing in the name of Rai Harendra Nath Chaudhuri.

Mr. SPEAKER: This is quite sufficient.

Dr. NALINAKSHA SANYAL: But we want to move this amendment.

Mr. JOGESH CHANDRA GUPTA: Sir, in the absence of Rai Harendra Nath Chaudhuri, Babu Nagendra Nath Sen will move it.

Mr. SPEAKER: All right.

Babu NAGENDRA NATH SEN: Sir, I beg to move that in clause 33(*1*)(*b*), lines 12 to 19, for the words beginning with "that the amount of the decree" and ending with "the amount of the decree" the following be substituted, namely:—

> "That the amount of the decree shall, subject to such conditions as the court may impose, be payable with or without interest in such number of instalments, on such dates and within such period as the court thinks fit having regard to the circumstances of the plaintiff and the defendant or the decree-holder and the judgment-debtor and the amount of the decree, and that if default is made in making payment of any instalment, that instalment and not the whole of the decretal amount shall be recoverable."

May I speak a few words, Sir, in support of the motion?

The Hon'ble Mr. H. S. SUHRAWARDY: The only difference is "with or without interest".

Babu NAGENDRA NATH SEN: Yes, and also the number of instalments. The Hon'ble Minister said "annual instalments" and we say "number of instalments." That is the only difference, and if the Hon'ble Minister accepts that, I have nothing to say.

Sir, the whole object of this amendment, No. 1159C, is to leave to the discretion of the court the power of granting interest or refusing interest after a decree has been passed, and as regards instalments we are not opposed to twenty years.

Mr. SPEAKER: I take it that the purpose of your amendment is to add the words "with or without" before the word "interest" and to substitute the word "annual" by the words "number of" before the word "instalments".

Babu NAGENDRA NATH SEN: Yes, Sir. The instalments may be 10, 20 or even 5. This is a very reasonable amendment, Sir. Mr. Chaudhuri said so the other day, and so also the European group which was represented by Mr. C. Millar. There is very little to say with regard to this. Seeing that by this amendment discretion is

attempted to be put upon the court which, it is expected, will do justice between parties and parties, Government should have no objection in accepting the amendment which has been moved.

Mr. JATINDRA NATH BASU: Sir, I support the amendment moved by Mr. Nagendra Nath Sen on behalf of Rai Harendra Nath Chaudhuri. As was pointed out in the discussion that took place on Friday last, it would be against the ordinary practice of law that there should be a limit of, say, 20 years for payment by the judgment-debtor of the decretal amount by instalments and that for those 20 years, no interest was to be paid. The amendment that is now tabled before this House provides that it will be for the court to decide as to whether any interest should be allowed or not and also as to the number of instalments that should be allowed. If you have an Act providing that on the money decreed there would be no interest, it will be practically an inducement for a number of people not to pay back after incurring a debt, as in the event of a suit being filed and a decree passed, he knows that no interest will run: all that he has to do to avoid interest is to stop payment. That will be a dangerous thing and it will induce people not to pay, and the effect will, to some extent, be towards creating that mentality; whereas if the clause is amended, as suggested, it will be left to the court, after looking into the circumstances of the transaction and of the lender and the borrower, to decide as to what should be the number of instalments and whether or not any interest should be allowed. If the court finds that the object of the borrower is merely to delay and to take advantage of the rather peculiar law that is going to be placed on the statute book, then the court will know how to deal with a case like that, but if it is a genuine case of a man who is trying his best to pay off his debt but cannot succeed owing to circumstances over which he has no control, then the court will naturally order a certain number of instalments and will regulate the rate of interest which should be paid on the instalments and also decide whether any interest is to be paid or not. Therefore, if you fix the instalments up to 20 years and provide that no interest should be paid and decrees and orders are passed in that way on the application of the judgment-debtor, the result will be that one generation or more may pass without the debt being realised and there will be no security for the loan. A man may have a decree passed against him. He may transfer his property to somebody else the next day to avoid payment, so that the decree-holder will have nothing at all to fall back upon for the realisation of his money. These are matters which have not been considered. I believe, all sides of the question should be considered and justice should be done to all parties.

Mr. SURENDRA NATH BISWAS: Sir, I support the amendment moved by Mr. Nagendra Nath Sen on behalf of Rai Harendra Nath

Chaudhuri? I do not think that the expected improvement has been made by the Hon'ble Mr. Suhrawardy in clause 33 in the light of the amendment No. 1160, moved by my friend, Rai Harendra Nath Chaudhuri, and which was first tabled by the Hon'ble Mr. Suhrawardy. The other day Mr. Suhrawardy took time to consider the amendment moved by Rai Harendra Nath Chaudhuri. But I find that he has not considered it. The only difference between the clause in the Bill and the amendment that the Hon'ble Mr. Suhrawardy has now proposed is this: Mr. Suhrawardy has made this clause 33(1)(b) applicable to loans advanced before the commencement of the Act and not to loans advanced after the commencement of the Act. But the Hon'ble Mr. Suhrawardy has not met the argument placed by Rai Harendra Nath Chaudhuri that money decrees relate to loans which are called short-term loans, and that as such there must be provision for speedy realisation of these loans. That is the principle underlying short-term loans. When Government have withdrawn the clause about the number of years of instalments with regard to mortgage decrees which relate to long-term loans, where was the logic to press for 20 years' instalments in the case of these money-decrees which relate to short-term loans? If for long-term loans, Government could be satisfied with leaving the matter entirely to the discretion of the court, what were the reasons which led Government to saddle the court with the direction that the instalments might extend up to 20 years in the case of short-term loans, for which on the other hand arrangement for speedy realisation was necessary. Sir, in long-term secured loans, the money-lender has got some property secured for the loan. If the debtor takes time to repay the loan, it does not harm the money-lender. But in the case of an unsecured loan, the money-lender has got no security and if the time for repayment of the loan is made very long, it is very likely that the money-lender may lose the money. Now, Sir, as legislators we have got to look to the interests of both the money-lender and the borrower. So far as the question of relief is concerned, we are prepared to give as much relief as is possible within the bounds of reason to the debtor. We are not against giving instalments to judgment-debtors according to the merits of individual cases. If the court finds that in a certain case, a good many annual instalments are necessary, let the court give that relief to the judgment-debtor. If, however, the court finds that a lesser number of instalments or no instalment should be given to a particular debtor, the court should give him lesser number of instalments or no instalment, as the case may be. Why should we bind the hands of the court with a direction that in all cases he shall give instalments and may give instalments for 20 years? This will be interpreted as a sort of compulsion upon the court and the court will consider that Government want that very long instalments should be given in all cases. Should we support this? Now, if we can depend upon the discretion of the court in respect of mortgage decrees, I do not see any reason why we cannot depend upon

the discretion of the court so far as decrees of unsecured loans are concerned. In all seriousness I submit that the amendment No. 1159C moved by Babu Nagendra Nath Sen on behalf of Rai Harendra Nath Chaudhuri should be accepted. Sir, the only alterations that are intended to be made by this amendment are the deletion of the words "annual" in line 3 and "not exceeding 20 years" from line 4 of the amendment of Mr. Suhrawardy, and the addition of the words "with or" before the words "without interest" in line 5 of that amendment. These alterations do not affect the position on material points. What do we want by these alterations? We want that in certain cases, while giving instalments, the court may give interest. Supposing the instalments are long; in that case, the court should give interest so that the money-lender may not be injured. Nobody can say that in all cases, the judgment-debtor deserves long instalments without interest. There may be certain cases in which the judgment-debtor may not deserve long instalments without interest. In those cases the court should have the power to give the decree-holder some interest on the decretal amount, although it may grant long instalments. But under Mr. Suhrawardy's amendment no interest shall be given irrespective of the number of instalments and of the period to which they may extend. To that we object. We say that instalments be given and let the period of instalment be as many as may be considered necessary by the court; and in certain deserving cases let the court grant instalments without interest, but let the court have also the power in certain cases to give some interest. So, let the decretal amount be payable with or without interest. Then, Sir, the instalments should not in all cases be annual; in certain cases they may be biennial or quarterly and in certain cases monthly. It all depends upon the merits of the different cases. Let all the cases be decided on their respective merits.

Mr. SPEAKER: Don't make your merits worse than you already possess. (Laughter.)

Mr. SURENDRA NATH BISWAS: Suppose a debtor is a Government servant, and earns a monthly income. For a debtor of that type the court may give monthly instalments. So I say, let the question of the nature of instalments be left to the court. These are the two things which we want. Our demand is modest and reasonable. With these words I commend the amendment of Rai Harendra Nath Chaudhuri to the acceptance of the House.

The Hon'ble Mr. H. S. SUHRAWARDY: I am afraid both the speeches of Mr. Basu and Mr. Biswas have been delivered under a certain misapprehension. If I do not reply to them, the House may be left under a misconception regarding the scope of the amendment which

I have put in. Mr. Basu apparently does not realise that this section applies only to loans which have already been made and been advanced and therefore his argument that the result of this will be that no further loans will be advanced and even if loans are advanced nobody will pay, does not apply.

Dr. NALINAKSHA SANYAL: Clearly it does.

The Hon'ble Mr. H. S. SUHRAWARDY: As regards the arguments of both the honourable members, I would like to say this, that the discretion exists in the court. Nowhere has it been said that the court shall grant 20 years' compulsory instalments. Nowhere has it been said that the court must grant instalments. Neither is there any compulsion on the court to grant interest nor is there any direction on the court to grant instalments up to 20 years. We have said that the court shall hear the plaintiff or defendents or the decree-holder or the judgment-debtor. That is to say after hearing both the parties it must give consideration to the position of the decree-holder on the one side and to the position of the judgment-debtor on the other. Then if it thinks that the position of the judgment-debtor is so bad that he cannot pay without instalments, then the court will grant instalments, but if the court thinks that the position of the judgment-debtor is not so bad, it need not grant any instalment at all. The discretion of the court is there. I see no reason why the other side is getting so nervous over it.

Dr. NALINAKSHA SANYAL: The language is otherwise.

The Hon'ble Mr. H. S. SUHRAWARDY: It is not otherwise. It is quite clear. The language is if the court thinks fit——

Dr. NALINAKSHA SANYAL: That is about the number only. It must give two or three instalments.

The Hon'ble Mr. H. S. SUHRAWARDY: In spite of the acuteness of Dr. Sanyal, I think he is mistaken. Instalments are not compulsory at all. The statement there is most definite. It is this, that the amount of the decree shall be payable without interest in such number of annual instalments as the court thinks fit.

Dr. NALINAKSHA SANYAL: It is the number.

The Hon'ble Mr. H. S. SUHRAWARDY: And if the court does not think fit to grant instalments, it will not. There is no question of number——

Mr. SPEAKER: May I intervene at this stage? I am not saying that your interpretation is not correct, but it is possible that the interpretation may be otherwise in view of the fact that the language is "as the court thinks fit." It may be interpreted that the court has no option but to grant some instalments. If your intention is to give discretionary power to the court, I think the language might be changed thus: "if the court thinks fit or something like that."

Dr. NALINAKSHA SANYAL: Such number as may be.

The Hon'ble Mr. H. S. SUHRAWARDY: Zero is also a number.

Mr. SPEAKER: That probably is in the Legislature and not in the law court.

The Hon'ble Mr. H. S. SUHRAWARDY: Further, it is stated there "and within such period not exceeding 20 years." My friend would like that we should give absolute discretion to the court, that is, the court may grant 40 or 50 years. If so, why does he object to 20 years? I do not think there is any difference between the one and the other. One thing that I would like to point out to my friend is that this amendment really does not enact any new provision. It merely sets down in writing what is to-day the actual practice in the courts in the mufassal. The position of the debtor is so bad that there is hardly any court which does not grant instalments. There is hardly any case in which instalments are not granted without interest.

Dr. NALINAKSHA SANYAL: Are you contemplating only the rural people or are you contemplating Calcutta people also?

The Hon'ble Mr. H. S. SUHRAWARDY: If the court thinks fit, I have no objection if it grants instalments without interest to Calcutta people also.

Dr. NALINAKSHA SANYAL: The court must.

The Hon'ble Mr. H. S. SUHRAWARDY: That is what you think; I think it otherwise.

Mr. PRAMATHA NATH BANERJEE: You are a Blackstone.

The Hon'ble Mr. H. S. SUHRAWARDY: I am afraid the Commentaries of Blackstone have always carried.

As I see in most cases instalments are given. But there is no interest imposed even now. Instalments are spread over a certain number of years. What we really want to do is to make non-payment

of interest compulsory. For this reason we accept the position that so far as the past loans are concerned, they stand on a different footing from the future loans. We desire the House to accept this position, that in the case of the past loans, the money-lenders have almost invariably taken as much advantage of the debtor as it has been possible for the debtor to give and to-day the debtor is anemic and unable to stand any further rapacity of the judgment-creditor.

Mr. SURENDRA NATH BISWAS: It refers to short-term and unsecured loans only.

The Hon'ble Mr. H. S. SUHRAWARDY: It does not refer to unsecured loans.

Dr. NALINAKSHA SANYAL: Limitation is three years.

The Hon'ble Mr. H. S. SUHRAWARDY: I can only suggest that Dr. Sanyal is not a lawyer; he knows nothing at all about the town and knows nothing about the village.

Everybody knows that in the case of an unsecured loan the period is three years. But at the end of that period by the payment of one rupee as part payment endorsed on the back of the document, one can get a further period of three years. Call it a trick if you like, but that is what has been resorted to. Every money-lender in the mufassal has for the last several years been practising this trick, namely, that he has extended the time of the loan by merely endorsing on the back of the document an alleged part-payment. On occasions even the money-lender himself has paid Re. 1 or Rs. 2 in order to extend the time of the limitation.

Dr. NALINAKSHA SANYAL: What is the position in Calcutta?

The Hon'ble Mr. H. S. SUHRAWARDY: This is the position, and we are legislating not on thin air that in view of the present——

Mr. AHMED HOSAIN: I rise to a point of order, Sir. Dr. Sanyal is going on continually interrupting the Hon'ble Minister. Is that permitted?

Mr. SPEAKER: As a matter of fact, I am trying to give a little time to Dr. Sanyal before warning him.

The Hon'ble Mr. H. S. SUHRAWARDY: I do not mind the interruption. It makes me more annoyed and therefore I feel better.

Dr. NALINAKSHA SANYAL: The Hon'ble Minister will not let me down any more.

The Hon'ble Mr. H. S. SUHRAWARDY: I can always speak better if I am annoyed, and I am now annoyed.

Mr. SPEAKER: I did not know that annoyance is an integral part of your answer!

The Hon'ble Mr. H. S. SUHRAWARDY: So far as the past loans are concerned, I think it is the desire of the House to give relief to debtors in connection with their past loans. Therefore, I think that the amendment which I have tabled is just, fair and proper. To those persons who are unable to distinguish between past and present loans, who do not know the present condition of the countryside, who do not know the present depression in the market and the depreciation of values, this may appear to be somewhat harsh. But those who are in touch with the people (Dr. SANYAL: Like yourself) and feel the pulse hold that this is a fair and just proposition.

Mr. SURENDRA NATH BISWAS: What about the debtors in Calcutta?

The Hon'ble Mr. H. S. SUHRAWARDY: I hope that the House will accept the amendment.

Mr. SPEAKER: Well, there is only one thing to be said. I have now carefully gone through the amendment. The language of Mr. Suhrawardy is "annual instalments." It does not necessarily mean more than one instalment. It might be one instalment.

Dr. NALINAKSHA SANYAL: It means at least one year.

Mr. SPEAKER: It might be one month.

Dr. NALINAKSHA SANYAL: No, the word "annual" is there.

Mr. SPEAKER: It is for the House to decide.

I have now to put the amendment of Rai Harendra Nath Chaudhuri moved by Babu Nagendra Nath Sen as an amendment to the Hon'ble Mr. Suhrawardy's amendment. In effect it means changes in two places. Instead of "annual instalments," Mr. Sen's amendment suggests "number of instalments"; it also suggests "with or without interest"—that is the wording.

The Hon'ble Mr. H. S. SUHRAWARDY: Will you allow me to submit one point? May I point out to the House that so far as future loans are concerned—the manner of their recovery, the judgment and so on—, we have left them untouched by this Bill and the law with regard to the future loans stands as it is?

The amendment of Rai Harendra Nath Chaudhuri, moved by Babu Nagendra Nath Sen, that in clause 33 (*1*) (*b*), lines 12 to 19, for the words beginning with "that the amount of the decree" and ending with "the amount of the decree", the following be substituted, namely:—

> "that the amount of the decree shall, subject to such conditions as the court may impose, be payable with or without interest in such number of instalments, on such dates, and within such period as the court thinks fit having regard to the circumstances of the plaintiff and the defendant or the decree-holder and the judgment-debtor and the amount of the decree and that if default is made in making payment of any instalment, that instalment and not the whole of the decretal amount shall be recoverable"

was then put and agreed to.

The amendment of the Hon'ble Mr. H. S. Suhrawardy that in clause 33 (*1*) (*b*), lines 12 to 19, for the words beginning with "that the amount of the decree" and ending with "the amount of the decree", the following be substituted:—

> "that the amount of the decree shall, subject to such conditions as the court may impose, be payable without interest in such number of annual instalments, on such dates, and within such period not exceeding twenty years as the court thinks fit having regard to the circumstances of the plaintiff and the defendant or the decree-holder and the judgment-debtor and the amount of the decree, and that, if default is made in making payment of any instalment, that instalment and not the whole of the decretal amount shall be recoverable"

was then put and agreed to.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that after clause 33 (*1*), the following sub-clause be inserted namely:—

> "(*bb*) In default of payment of any instalment referred to in clause (*b*) of sub-section (*1*), the decree-holder shall, after giving to the judgment-debtor such notice as may be prescribed, be entitled to apply for execution of the decree in respect of such instalment together with interest thereon at the rate of not more than six per cent. per annum from the date of such default."

Provided that nothing in this sub-section shall affect the power of the court to allow, prior to an order for execution of the decree, an extension of time of not less than one year for the payment of any instalment, and that if such extension of time is allowed, the payment of such instalment shall not be deemed to be in default:

Provided further that if the judgment-debtor, after receiving the notice referred to in this sub-section and prior to an order for execution of the decree, makes payment into court of the amount due from him in respect of any such instalment, the payment of such instalment shall not be deemed to be in default and the court shall not order execution of the decree".

Honourable members will see that we are providing here interest at 6 per cent. per annum of payment any instalment in default against the defendant.

Babu NAGENDRA NATH SEN: On a point of information, Sir. Will the Hon'ble Minister be pleased to state when he mentions that the rate of interest will be not more than 6 per cent per annum, to whose discretion will it be left—the court or the decree-holder?

The Hon'ble Mr. H. S. SUHRAWARDY: The court. You can apply for more than 6 per cent. per annum, but the court may or may not grant it.

Babu NAGENDRA NATH SEN: When?

The Hon'ble Mr. H. S. SUHRAWARDY: When it comes to consider the application.

Babu NAGENDRA NATH SEN: That cannot be the procedure

The Hon'ble Mr. H. S. SUHRAWARDY: I know that there is a flaw in it. You may say that the court shall exercise discretion and shall fix the amount of interest before the person applies.

Dr. NALINAKSHA SANYAL: You do not give that power to court.

The Hon'ble Mr. H. S. SUHRAWARDY: It is really such a small matter. It does not matter whether it is fixed before or after the application. There is a proviso again to the effect that the court may allow extension of time and further that if the instalment has been paid, then it shall not be considered to be in default. I would like to

point out to the House again that this refers to past debts and not to future debts. It refers to debts which have already been covered by 33(*1*)(*b*), and in regard to their execution this section applies.

Mr. SURENDRA NATH BISWAS: Although I know the fate of my amendment, still I should stand up and move. Sir, I beg to move that in lines 3 and 4 of the first proviso to new sub-clause (*1A*) to clause 33 as proposed by the Hon'ble Mr. H. S. Suhrawardy by his new short-notice amendment No. 1169A the words "of not less than one year" be omitted.

Sir, by the amendment moved by the Hon'ble Mr. Suhrawardy he wants that if a judgment-debtor makes default in paying one instalment, the court shall have the power to extend the time for the payment of that instalment, but that extension of time shall not be less than one year. That is, it may be two or three years or more. It is very curious that if the judgment-debtor makes default in paying an instalment, the court shall extend the time for paying that instalment by not less than one year. Sir, I do not understand the logic of this amendment. In the Bengal Agricultural Debtors Act, there is a provision that the settled debt will be made payable by instalments. In that Act, the Certificate Officer has the power to extend the time for payment of instalments, in case the judgment-debtor satisfies him that he cannot pay. In that case, the Certificate Officer may extend the time for payment, but no time-limit is given. The extension may be for three or six months or any other period less than one year, as that Officer thinks fit. But here although the debtors belong to all classes, the Hon'ble Mr. Suhrawardy wants that the extension of time to be given shall not be less than one year. This is ridiculous. By my amendment I want to delete the words "not less than one year". Sir, I do not want to say that in case of default of payment of an instalment, the court shall not extend the time for the payment of that instalment; what I say is that the question of extension of time for the payment of the defaulted instalment should be left to the discretion of the court. Why should there be this binding on the court to extend the time by not less than one year? There may be courts who may be in favour of the debtors and may extend the time by a large number of years. Such a law is bound to encourage defaults in payment of instalments. Does the Hon'ble Mr. Suhrawardy seriously want such a law? After all, what is meant by "not less than one year"? It means that when the time for the payment of an instalment in default is to be extended, the court shall be bound to extend it by more than one year; it may be two years or three years——

Mr. SPEAKER: Your amendment, Mr. Biswas, does not help it in any way.

Mr. SURENDRA NATH BISWAS: Sir, by my amendment I want to remove this restriction. Why should the court be bound to extend the period for payment of an instalment in default by more than one year? What I want is that so far as the question of time is concerned, let it be left to the discretion of the court. Generally, it should be one month, two months or three months or at most six months. If there are cases where the court thinks that it should not extend the time by not more than three months or six months, the court shall have no power to do so. He cannot extend the time by any lesser period than that of one year. What will be the effect of such a measure? The amendment which has been carried just now together with this amendment will induce many borrowers not to repay the loan till the lender is forced to go to the court. Specially, in the cases of those debtors whose period of indebtedness is only two or three years, they will cease payment and force the lender to go to the court, if this measure be passed. Then again, when I heard the Hon'ble Mr. Suhrawardy to argue, I understood that the Hon'ble Mr. Suhrawardy had the agriculturists in the countryside only in his mind and not the other borrowers. There are borrowers, Sir, who for their own convenience would be satisfied with an extension of time by two or three months and the Hon'ble Mr. Suhrawardy would be doing a great harm to such borrowers, if he retains the words "of not less than one year". From all points of view, I submit that in the matter of extending time for payment of an instalment in default, full discretionary power should be given to the court.

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. DEBI PROSAD KHAITAN: Sir, I would like to say a few words in support of the amendment moved by Mr. Surendra Nath Biswas. I myself was in a difficulty to understand the equity and justice lying behind the words "not less than one year" as moved by the Hon'ble Minister. I am sure, Sir, that before the Hon'ble Minister drafted the amendments he at least did not make any attempt to understand the implications of his amendment. But I would like to put forward one or two cases for his consideration, and I believe that if he applies his mind to these considerations, he will have no difficulty in accepting the amendment that has been moved by Mr. Surendra Nath Biswas.

Now, Sir, this amendment applies to the execution of a decree or to the granting of a time in regard to the payment of any one instalment. The Hon'ble Minister wants that the extension of time should not be less than one year. Let us suppose, Sir, that an instalment falls due in the month of June or July and the next harvesting period—I am thinking of the debts of the agriculturists—is in October

or November or December when the agriculturist is in a position to pay his debt. The agriculturist would require extension of time till the next harvesting period in order that he may be able to pay his creditor that instalment and be in a position to pay the next instalment when it becomes due next year. If this amendment, as moved by the Hon'ble Minister, be passed, the difficulty will be that even if the court be inclined to listen to the justice of the contention put forward by the judgment-debtor that he wants time only by three or four months, the hands of the court will be tied absolutely and the court will not be entitled to grant extension of time for a period of not less than one year. I submit, Sir, that this may cause hardship even to the judgment-debtor if these words are retained.

Sir, another point to which I would like to draw the attention of the Hon'ble Minister is about the method of distributing the sale-proceeds realised in the execution of a decree. Supposing, Sir, a borrower has several creditors who have got their decrees and the sale-proceeds in execution have got to be ratably distributed. Let us assume, Sir, as often happens, that within three or four months from the date of an instalment falling due, the sale-proceeds realised in execution are to be distributed; in that case the hands of the court will be tied down in that the payment of the instalment must be postponed by at least one year, and justice cannot be done in respect of the wishes of the court to the judgment-creditor by allowing any extension of time only by three or four months. This will not benefit the judgment-debtor, but it will certainly harm the decree-holders whose instalments have not been realised and cannot be realised, because the sale-proceeds will go to the other decree-holders in preference to and to the exclusion of the judgment-creditor in regard to whom this provision will apply. The other argument is that he cannot execute his decree and cannot therefore participate in the distribution of the sale-proceeds.

Sir, other reasons can be assigned, but I do not want to take up the time of the House, because it seems to me that the insertion of these words "of not less than one year" is so much against equity and justice that I do hope that the Hon'ble Minister will see his way to accept the amendment of my friend Mr. Surendra Nath Biswas.

Maulvi MUHAMMAD ISRAIL: Mr. Speaker, Sir, I have just heard the speech of my friend Mr. Debi Prosad Khaitan. He has taken the case of an instalment of agriculturists being due in June or July——

Maulvi ABU HOSSAIN SARKAR: Whom are you addressing your speech to?

Maulvi MUHAMMAD ISRAIL: I am addressing Maulvi Abu Hossain Sarkar!

Dr. NALINAKSHA SANYAL: But you cannot do that!

Maulvi MUHAMMAD ISRAIL: Sir, so far as this is concerned, it is not the case with the agriculturists-debtor, because their instalments are granted at the time of the harvesting season, i.e., when jute crop in the month of *Agrahayan* or *Kartick* and in the case of paddy crop in the month of *Pous* or *Magh*. I submit, Sir, that if instalments are at all to be paid by agriculturist-debtors, they must be put off till the next havesting time to enable them to pay.

Mr. DEBI PROSAD KHAITAN: Sir, if I may be permitted to interrupt my friend, I might state that the amendment of Mr. Surendra Nath Biswas does not exclude the power of the court from granting extensions of time by one year, or even five years.

Maulvi MUHAMMAD ISRAIL: I am just now coming to the point raised by my honourable friend Mr. Khaitan. So far as the agriculturist-debtors are concerned, they will be benefited by this amendment instead of being harmed, because instalments are generally given at the time of harvesting.

Sir, my friend has in the course of his speech raised the question of two crops. So far as the *aus* crop is concerned, it does not come within the category of the money crops, such as sugar-cane, jute, etc. These crops are harvested only once a year, and unless the instalments are put off till another year, the agriculturist-debtors will be put to great hardship.

Then, Sir, my friend has raised the question of ratable distribution. When there is an instalment, the pleader, or anybody who pleads on behalf of a creditor, always urges upon the court to make an order allowing him to join in the ratable distribution of assets if occasion arises in spite of instalment order and the court always does so. In spite of the instalments, the court will make such an order, where there is another creditor who is going to execute his decree and selling up the properties of the judgment-debtor. In that case the court shall make a conditional order that if anybody proceeds—

Mr. DEBI PROSAD KHAITAN: But the court cannot make a conditional order.

Maulvi MUHAMMAD ISRAIL: The court can make a conditional order if there is a prayer for a ratable distribution that the decree-holder must wait till the next crop is harvested.

I submit, Sir, that there is no difficulty, as has been pointed out by my friend Mr. Khatian.

Babu NAGENDRA NATH SEN: Sir, I want to say something about motion No. 1169A. This amendment, which has been moved by the Hon'ble Mr. Suhrawardy, is that, under certain conditions, the decree-holder shall, after giving to the judgment-debtor such notice as may be prescribed, be entitled to apply for execution of the decree in respect of such instalment together with interest thereon at the rate of not more than six *per centum per annum* from the date of such default.

Now, after the passing of motion No. 1159B, which entitles the judgment-debtor to have instalments extending up to 20 years without interest, the decree-holder has got to apply for execution of his decree in the event of default of payment of any instalment by the judgment-debtor, and if the decree-holder is entitled to charge interest at something more than six per cent. per annum, where is such a fool of a decree-holder who will charge anything less than six per cent.? This is giving too wide a power to the decree-holder. (The Hon'ble Mr. H. S. SUHRAWARDY: Let him charge six per cent.) The decree-holder may charge interest at a rate not less than six per cent. The power is not given to the court; the power is given to the decree-holder, and the language of the section does not give any power or jurisdiction to the court to reduce that rate of interest in favour of the judgment-debtor. And if the judgment-debtor does not appear after notice, in that case the court will have no power to reduce the interest in favour of the judgment-debtor. The result will be that at his own sweet will the decree-holder will be entitled to charge interest as against the judgment-debtor, at any rate not exceeding six per cent., and if that is so, no decree-holder will charge interest at less than six per cent. If the court has been given no jurisdiction and no discretion in this matter, the court will be unable to reduce the rate of interest in favour of the judgment-debtor. The court will be bound to grant the decree-holder the interest which he will charge. The language of the amendment is very clear. The whole option has been given to the decree-holder. Nothing has been left for the court or for the judgment-debtor to apply for any reduction of interest.

Mr. SPEAKER: Something has been left.

Babu NAGENDRA NATH SEN: Absolutely nothing, Sir. The language is very clear. Now that motion No. 1159B has been carried, the court has been disabled to grant any reduction of the rate of interest to the judgment-debtor. Therefore the discretion is left to the decree-holder alone, and so the fate of the judgment-debtor has been sealed.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I pointed out in my opening speech that the decree-holder may ask for interest at six per cent., but the court may not allow it. (Babu NAGENDRA NATH SEN: Where is that option?) Simply because the decree-holder charges six per cent. interest, it does not follow that he will get it. However, it does not matter. It is a very small matter.

So far as the argument of Mr. Biswas is conerned, I think that he has answered his question himself. He has stated: "If you say not less than one year there must be courts inclined to give the debtor up to five or six years". In answer to that, I may say that there must be courts so much in favour of the creditor that they may grant one week or one month, which is equally disastrous, and that is the reason why we have adopted a mean and taken one year, because we think that the judgment-debtor ought to have time till the harvesting season to pay up his debt.

Honourable members will see that this proviso only comes into operation if the court, after hearing both parties, is satisfied that the judgment-debtor has not been able to pay his instalments. This does not come into operation until the court is so satisfied. Now, the court will take evidence; it will make enquiries; and it will find that the judgment-debtor has not made any default; and having so found, the court will grant time. If time is given owing to failure of crops, or flood or famine, or drought or for any other reason, it must allow another crop, a substantial crop to grow before it can call upon the judgment-debtor to pay up the instalments. Now, Mr. Khaitan has stated that a decree may fall due in June or July, whereas a crop may be cut in October, November or December. With regard to that, I would say that at the time when instalments are given and dates are fixed, the court hears both parties and the court has got a certain amount of discretion and has also a certain amount of intelligence and I cannot conceive of a mufassil court fixing the date of payment of any instalment at a time when the cultivator has got no crops or no money in his home. It will always fix the date after a crop has been cut and after having fixed the date after a crop has been cut, if the instalment fails owing to the failure of the crop, surely it is proper that there should be extension for another term.

Mr. Biswas has stated that these may be borrowers who may be satisfied with instalments of less than a year. I do not think that this rules out any consent decrees or consent settlements. If there are borrowers who are prepared to pay after three months and if there are lenders who are prepared to accept them, in spite of anything which we might pass here, a decree may be passed fixing the payment of instalments after three months. It is only in cases where the court after having heard both parties is satisfied that the judgment-debtor is not able to pay up the instalments and is therefore required to exercise its judgment with

regard to fixing of instalments,—it is only then that the court ought not to fix a lesser time than one year. I therefore oppose the amendment of Mr. Surendra Nath Biswas.

The motion of Mr. Surendra Nath Biswas that in lines 3 and 4 of the first proviso to new sub-clause (*1A*) to clause 33 as proposed by the Hon'ble Mr. H. S. Suhrawardy by his new short-notice amendment No. 1169A, the words "of not less than one year" be omitted, was then put and lost.

The motion of the Hon'ble Mr. H. S. Suhrawardy that after clause 33 (*1*), the following sub-clause be inserted, namely:—

"(*1A*) In default of payment of any instalment referred to clause (*b*) of sub-section (*1*), the decree-holder shall, after giving to the judgment-debtor such notice as may be prescribed, be entitled to apply for execution of the decree in respect of such instalment together with interest thereon at the rate of not more than six *per centum per annum* from the date of such default:

Provided that nothing in this sub-section shall affect the power of the court to allow, prior to an order for execution of the decree, an extension of time of not less than one year for the payment of any instalment, and that if such extension of time is allowed, the payment of such instalment shall not be deemed to be in default:

Provided further that if the judgment-debtor, after receiving the notice referred to in this sub-section and prior to an order for execution of the decree, makes payment into court of the amount due from him in respect of any such instalment, the payment of such instalment shall not be deemed to be in default and the court shall not order execution of the decree"

was then put and agreed to.

Mr. SPEAKER: That disposes of clause 33. There are some amendments yet to be disposed of.

So far as 33A, 33B and 33C are concerned, they are beyond the scope of the Bill and so they do not arise. We will now take up 34A.

Clause 34A.

Mr. SPEAKER: Mr. Suhrawardy, are you moving your amendment?

The Hon'ble Mr. H. S. SUHRAWARDY: No, Sir.

Clause 35.

Rai HARENDRA NATH CHAUDHURI: I beg to move that after clause 35 (*2*), the following be inserted, namely:—

"(*3*) Where any of the principal or interest or both of a loan has been declared under this section to be payable and already due, and the lender not later than one month after the date of the declaration pays the court-fee payable on a plaint in a suit for the recovery of the amount declared due, the court shall endorse the order of declaration with the statement that such court-fee has been paid, and the order of declaration shall thereupon become executable as a decree of the court."

Sir, clause 35 provides for enquiry for taking accounts and declaring the amount due. It will be in the nature of a suit. That it will be in the nature of a suit has been made clear in sub-clause (*4*). Sub-clause (*4*) says—"a proceeding under this section shall be deemed to be a suit for the purposes of section 11 of the Code of Civil Procedure". Not only it does so, but it also provides for "appeal." In other words the order of declaration contemplated in clause 35 will be an appealable order. Now, Sir, if the whole trouble of going into the accounts of a loan has to be taken and the final settlement of accounts reached, I cannot understand why the lender will be baulked or deprived of a decree for the amount found due? Why should he not be permitted to pay the court-fees and get a decree in the same proceedings? That is the one thing that passes one's comprehension. If, as I have said, one carefully considers the provision of sub-clause (*4*), one can be sure that such proceedings are not going to rest with the decision of lowest court but may be taken on appeal even to higher courts. If that be so, I cannot find any justification whatsoever for denying the money-lender the right to take the next step of paying the court-fees and getting a decree for the amount due. The Hon'ble Mr. Suhrawardy was well-advised in tabling an identical motion. But I do not know what has made him drop it now. I would request him to apply his mind more carefully to the matter and seek, as I do, the restoration of sub-clause (*3*).

The Hon'ble Mr. H. S. SUHRAWARDY: I have not purposely moved this motion for this reason: if this clause stands then no borrower would dare to go to court and ask for an account. You want to give facilities to the borrower, you want him to go to the court and get an account. If you put in this amendment, the result would be that it would be followed immediately by a decree against him. There would be no borrower who would go to court and ask how the

accounts stand against him. After all what is the effect of this. The effect will be that your decree will be postponed by a month. The account has been settled; it has been passed; it has been declared; it has been examined and all that the creditor has to do is to go and file a suit and pay the court-fees and there is no difficulty, it has already been adjudicated upon and the judgment creditor has got to produce no evidence. The judgment either by report, or by admission, is possibly ruled by *res judicata*. I do not see any reason why by accepting this amendment we should force the borrower to accept a decree.

Rai HARENDRA NATH CHAUDHURI: May I put one question?

Mr. SPEAKER: Yes.

Rai HARENDRA NATH CHAUDHURI: The Hon'ble Minister ought to make the position clear. He is introducing a confusion. The confusion which he is going to make must be placed on record.

Mr. SPEAKER: He has already replied.

Rai HARENDRA NATH CHAUDHURI: He has not made one point clear.

Mr. SPEAKER: You can ask him a question.

Rai HARENDRA NATH CHAUDHURI: Will the Hon'ble Mr. Suhrawardy be pleased to state how under sub-clause (4) an order of declaration may be acceptable if it is not a decree? If it is a decree, why should not the creditor be permitted to proceed in the same proceedings and pay the court-fees and get a decree?

The Hon'ble Mr. H. S. SUHRAWARDY: I have already replied to it. I have said that it may be considered to be *res judicata*. All that he has got to do is to appear before the court the next day, and, file a suit, pay the court-fees and get a decree. There can be no defence.

The motion of Rai Harendra Nath Chaudhuri that after clause 35 (2), the following be inserted, namely:—

"(3) Where any of the principal or interest or both of a loan has been declared under this section to be payable and already due, and the lender not later than one month after the date of the declaration pays the court-fee payable on

a plaint in a suit for the recovery of the amount declared due, the court shall endorse the order of declaration with the statement that such court-fee has been paid, and the order of declaration shall thereupon become executable as a decree of the court"

was then put and lost.

Clause 36.

Mr. JATINDRA NATH BASU: I beg to move that in clause 36 (*3*), line 1, the words "notwithstanding any agreement between the parties" be omitted.

I also beg to move that the following proviso be added after clause 36 (*3*), namely:—

"Provided that no payment made shall be accepted or appropriated towards the principal if at the date of any payment any sum is payable for interest and in the event of interest being payable, the sum paid shall first be applied towards the interest payable at the date of such payment, the balance, if any, being applied towards the principal".

The Select Committee has provided: "Notwithstanding any agreement between the parties when the borrower has deposited in court under this section any sum due in respect of the loan, if such sum is in payment of the principal or any part thereof, the interest on such principal or part shall cease from the date of the service of notice on the lender". What I seek to do is that it may be that both the lender and the borrower may find that by an agreement between themselves if they can really come to a settlement it will be beneficial to both of them, and I think there is no reason why they should not be permitted to enter into an agreement between themselves. This shuts out all mutual agreements between the parties in a matter like this. It may be that the borrower himself will enter into an agreement by which he agrees to pay some interest and it will be to his advantage to do so. I therefore propose that the words be omitted.

Dr. NALINAKSHA SANYAL: I want to oppose the motion of Mr. Jatindra Nath Basu. We understand, the present law, as it now stands, gives option to the debtor to pay either the interest or the capital that may be outstanding. There is a Privy Council ruling which, I understand, has given this privilege to the debtor that the debtor, even if there is an outstanding interest, may, if he so chooses, repay part of the capital without paying the interest. The debtor has thus a right and a privilege which Mr. Basu seeks to limit by reference to some agreement to the contrary. Surely when we are

sitting here with a view to help the debtor, we are not going to have restrictions on the debtor of this character and particularly when the matter has actually gone to the court and it is the court that decides the actual amount payable by way of capital and interest separately and there should be no difficulty about estimating the amount of interest and the amount of principal outstanding. What ordinarily happens unfortunately is that whenever the debtor sends some instalments, whether he states that it is towards capital or interest, if the creditor is not so pleased, he can always hold back a portion of the money and refuse to credit the amount towards the principal. This works very harshly on the debtor. Here, in the course of the whole legislation, we seek to reduce the burden of interest. Obviously the new rate of interest will not be the rate mentioned in the documents of the creditors and therefore under the new arrangements whenever the debtor will seek to send a portion of the dues, the creditor will say that he has appropriated this payment at a rate much higher than what is permissible and the debtor will claim that a portion of this surplus will go to reduce the principal. This will invariably happen. If there is any provision for mutual agreement debarring the debtor from paying whatever he chooses either by way of principal or by way of interest, then it will work against the interests of the debtor and therefore, Sir, I do not think the House should accept the amendment moved by Mr. Basu.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I am glad to find that Dr. Sanyal is now beginning to speak on behalf of debtors and if he and his party continue to adopt this attitude towards debtors, the rest of the Bill will have a very easy passage.

Sir, I am opposing the amendments of Mr. Basu because they are unnecessary.

Mr. JATINDRA NATH BASU: I have not yet spoken on the other amendment of mine, namely, No. 1294.

The Hon'ble Mr. H. S. SUHRAWARDY: I think that it would be better, Sir, if Mr. Basu spoke on both the amendments first.

Mr. JATINDRA NATH BASU: I did not speak on the other.

Mr. SPEAKER: We have been following that practice all along. Mr. Basu. I think that you had better finish first.

Mr. DEBI PROSAD KHAITAN: Sir, I want to speak a few words on Mr. Basu's amendment No. 1294.

Mr. SPEAKER: As a special case, I shall ask the Hon'ble Mr. H. S. Suhrawardy to confine himself to amendment No. 1289 in his reply.

The Hon'ble Mr. H. S. SUHRAWARDY: I am opposing it on this ground that if we are enacting a law which is going to benefit one party or the other—and in this case the borrower—I don't think that a borrower should be permitted to bargain away or barter away the privilege which we are giving him under the law and therefore, Sir, we propose that any agreement to the contrary shall not be accepted by the court.

The amendment of Mr. Jatindra Nath Basu that in clause 36(3), line 1, the words "notwithstanding any agreemgnt between the parties" be omitted, was then put and lost.

(The House was then adjourned for 15 minutes.)

(After adjournment.)

Mr. JATINDRA NATH BASU: Sir, my amendment is intended to provide for the adjustment of accounts between the borrower and the lender where money is paid and nothing is indicated as to how that money is to be applied. It may be urged on behalf of the borrower that the money is to be applied towards the principal while the interest is outstanding. All that I want to provide is that where a payment is made, it should first go towards the adjustment of interest outstanding and the balance, if any, should go towards the principal.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I oppose the amendment. We are not interfering with the law as it stands, and there is no reason why, if the law allows a payment to be made towards the principal, we should make it compulsory under this law that, if the interest is outstanding, any payment that may be made shall first be made not towards the principal but towards the interest. We are not affecting the law, and if the borrower has got certain privileges under the existing law, I think it would not be proper to take away those rights by this Bill. I therefore oppose the amendment.

The motion of Mr. Jatindra Nath Basu that the following proviso be added after clause 36(3), namely:—

> "Provided that no payment made shall be accepted or appropriated towards the principal if at the date of any payment any sum is payable for interest and in the event of interest being payable, the sum paid shall first be applied towards the interest payable at the date of such payment, the balance, if any, being applied towards the principal"

was then put and lost.

Clause 37.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that for sub-clause (*3*) of clause 37, the following be substituted, namely:—

"(*3*) No money-lender shall take from any borrower or intending borrower any note, promise to pay, power of attorney, bond or security which describes or refers to as a commercial loan any loan which is not a commercial loan.

(*4*) Notwithstanding anything contained in any law for the time being in force, any note, promise to pay, power of attorney, bond, security or document referred to in sub-section (*1*) or sub-section (*3*) shall be void and unenforcible.

(*5*) Notwithstanding anything contained in any law for the time being in force, in any suit or proceeding the burden of proving that a loan is a commercial loan shall be on the money-lender who advanced the loan".

Sir, I may point out that these sub-clauses are really dependent on the exclusion of the commercial loan from the purview of this Bill. We have excluded the commercial loan provided that these sub-clauses are inserted in the Bill, and I hope, Sir, that the House will not disturb the adjustment so arrived at. (Dr. NALINAKSHA SANYAL: Had you any direction of the House to do so?) I do not know whether there was any direction of the House, but at the time when I agreed to the amendment for the exclusion of the commercial loan from the purview of the Bill, I made it distinctly clear to the House that it was dependent upon the amendment which I intended to table in respect of clause 37(*3*). If any argument is required, I may state that it is extremely desirable that these sub-clauses should be put in because what we really desire is that a person, particularly an agriculturist, and the agriculturists form the largest percentage of debtors, should not take an ordinary loan on the plea that it is a commercial loan, and in order to save him from having to pay a larger amount of interest than that provided under clause 28, we think, Sir, that the burden of proving that the loan is a commercial loan should be on the money-lender who advances the loan. And if there is a collusion between the parties, if the money-lender knowing fully well that what he is advancing is not a commercial loan classes it as a commercial loan in order to get the benefit of a higher rate of interest, then that money-lender ought to be penalised and he should not be allowed to recover the loan he has so advanced. One way out of the difficulty will be if the money-lender on every occasion sticks to the rate of interest which has been provided in section 28 and does not charge a higher rate of interest. In that case it really does not matter what is the nature of the loan, and these sub-clauses will not come into operation. (Dr. NALINAKSHA SANYAL:

How do you say that?) I think, one of these penal clauses will have this very salutary effect that the rate of interest will not go beyond that provided for in section 28, and if any money-lender is so rapacious as to do so, then he runs the risk of losing the loan altogether.

Sir, I therefore commend this motion to the acceptance of the House.

Dr. NALINAKSHA SANYAL: May I submit, Sir, that this amendment be taken up when sub-clause (*3*) will be discussed, and each one of these sub-clauses be taken up separately?

Mr. SPEAKER: I shall look into that.

Dr. NALINAKSHA SANYAL: Sir, I beg to move that in clause 37(*1*), in line 7, after the word "instrument" the words "other than shares, *hundies* and such instruments used for commercial transactions" be inserted.

Rai HARENDRA NATH CHAUDHURI: Sir, I am not moving amendment No. 1298, but I am moving a short-notice amendment.

Sir, I beg to move that in clause 37 (*4*) as proposed by the Hon'ble Mr. H. S. Suhrawardy in his amendment No. 1303A the words and figure "sub-section (*1*) or" be deleted.

Mr. SPEAKER: I am not sure if amendment No. 1304 of Dr. Sanyal arises.

Dr. NALINAKSHA SANYAL: I submit, Sir, it does arise, and with your permission I want to move it in respect of sub-clause (*4*) and not sub-clause (*3*) against which it originally stood.

Sir, I beg to move that in clause 37(*4*), line 4, for the word "void" the word "voidable" be substituted.

Mr. SPEAKER: Now you can speak.

Dr. NALINAKSHA SANYAL: Mr. Speaker, Sir, I have in my first amendment sought to make the application of sub-clause (*1*) of clause 37 practicable. As you may be aware, Sir——

Mr. SURENDRA NATH BISWAS: Is it your ruling, Sir, that no other amendment can be moved to clause 37? There are other amendments. If Mr. Jatindra Nath Basu does not move, I propose to move amendments Nos. 1303B and 1303C.

Mr. SPEAKER: Mr. Basu, will you move amendment No. 1303B?

Mr. JATINDRA NATH BASU: Yes, Sir. I beg to move that sub-clause (*4*) of clause 37 as proposed by amendment No. 1303A tabled by the Hon'ble Mr. H. S. Suhrawardy be omitted.

Mr. SPEAKER: Will you move the next amendment also?

Mr. JATINDRA NATH BASU: Yes, Sir. I beg to move that for sub-clause (*5*) of clause 37 as proposed by amendment No. 1303A, the following sub-clause (*5*) be substituted, namely:—

> "(*5*) If in any writing relating to a loan, the loan is described as a commercial loan, the burden of proving, that the loan was not a commercial loan, shall be on the borrower; but if there is no such writing, then the burden of proof, that the loan was a commercial loan, shall be on the money-lender."

Dr. NALINAKSHA SANYAL: As I was saying, Sir, I moved my amendment No. 1297 with a view to make the application of the provisions of sub-clause (*1*) of clause 37 more practicable. As you may be aware, Sir,—will the Hon'ble the Commerce Minister pleased lend me his ears? (The Hon'ble Mr. H. S. SUHRAWARDY: Yes, yes.) (Laughter.)—I have proposed to add the words "other than shares, *hundies* and such instruments used for commercial transactions" after the word "instrument" in sub-clause (*1*). This sub-clause relates to the documents purporting to show the terms of a loan, and there it is stated that certain minimum requirements must be noted on such documents. It has also been stated that no money-lender shall take from a borrower or intending borrower any instrument in which blanks are left to be filled in at later date. It is common knowledge that by virtue of a blank transfer shares and *hundies* and such other instruments that are daily being handled in the markets of Calcutta are transferred; and these blank transfers afford facilities to the debtor more than to the creditor. The debtor usually goes to either a bank or to a money-lender or to a company or a corporation or to a share-broker and hands over his share with a transfer form in which the actual date of transfer and other particulars may be subsequently written out. On the basis of that blank transfer money is advanced. It is the quickest process of obtaining a loan. If, on the other hand, it is insisted that the blanks must be filled and the transfer must be thus regularised, then the share-broker cannot at that moment know to whom ultimately the share will have to be transferred, and he will have to get his blank transfer filled up either with his name mentioned as a transferee or as somebody else's name who may not be the real transferee. In that event when the actual transfer will be registered in the books of the company, there will have to be proved several processes of transfer, which is impossible to prove.

The Hon'ble the Commerce Minister certainly knows that numerous transactions take place in Calcutta on such blank transfers. There is no difficulty in law, and apart from the commercial transactions, even non-commercial private transactions have as basis such blank transfers. Further, so far as certain kinds of transactions go, a general lien-form is executed, and on that lien-form general liability is accepted for all bills or such other papers and documents that are from time to time handed over. As you may know, Sir, thousands of people have to obtain money on their bills, and when they make out a bill, these bills are usually pledged or assigned in favour of some bank or some intermediary who collects the bill on behalf of the original drawer. These bills are handed over, and the actual amount that may be realised afterwards may differ from what has actually been billed for. If the amount charged at the time and the actual amount ultimately realised differ, then the person who is lending out money must come within the mischief of this sub-clause. That would make such advances impossible, and nobody will be in a position to give advances on a general lien-form, nor on blank transfers, nor on bills. It is true, as the Hon'ble Mr. Suhrawardy will say, that commercial loans are excluded. Though commercial loans as such are excluded, loans which are not commercial loans but are based on such documents come within the mischief of this sub-clause. If, therefore, the intention of Government is not that the whole transaction in the share market should be stopped, I believe the Hon'ble Mr. Suhrawardy will see the justice of restoring the few words that I have sought to add after the word "instrument" in sub-clause (*l*).

With regard to sub-clause (*3*) which has now been replaced by a new sub-clause, I have got only one small amendment to offer. In the original sub-clause (*3*) as it was originally drafted and which is now sub-clause (*4*), I had intended to change the word "void" into the word "voidable." It is only reasonable and fair that when you punish a person for one offence, he must not have two punishments. As you are aware, Sir, if a person has a wrong statement made on a document, he will be liable to certain punishment by virtue of the provisions of another clause and he will even be liable to be sent to prison. That being the position, I cannot understand why the Hon'ble Minister desires to limit the discretion of the court by saying that when some such discrepancy will be noticed, the whole transaction will at once be void and not voidable. I want to substitute the word "voidable" for the word "void" only with a view to leave the discretion in the hands of the court.

If the offence has been such that the omission or misstatement has been more or less of a technical nature, the court may think that although there has been this much of misstatement or wrong statement, the whole statement may not be necessarily void, but there may be provision for some punishment under section 39. Therefore, it is only

fair that it should be voidable and not void *ab initio*. If a transaction has been entered into in good faith and the creditor has taken every reasonable care to ascertain that the loan that is going to be advanced is for commercial purposes and it is to be used for commercial purposes and that every *bonâ fide* attempt has been made, and thereafter if he finds that the loan, after it has been taken out, has been diverted to some other purpose, then all that the creditor can do is to demand of the debtor sufficient explanation as to why he was hoodwinked and attempt was made to obtain a loan from him on false representation. If, even after he does that, the creditor is compelled to go to the court ultimately, and it is proved, as it is bound to be proved, that the loan was not used for commercial purposes, for absolutely no fault of the creditor, the whole loan becomes void and not merely voidable. The court will have no discretion to maintain the claim of the creditor, because the law states that the transaction has been already void. This refers to all cases. Sub-clause (*4*) of the new clause moved by Mr. Suhrawardy refers both to the cases of commercial loans as well as to the cases of other loans where by virtue of sub-clause (*1*), there has been some discrepancy or misstatement in the document purporting to record the loan, so that, as the Hon'ble Mr. Suhrawardy tried to make out, the word "void" will not refer merely to such cases where the creditor has sought to abuse the privilege of a commercial loan and has attempted to take advantage of the exemptions under commercial loans, but even in ordinary loans, this will be applicable. Surely, it is not the intention of Government to penalise a creditor in more than one direction. After the case has been sufficiently made out, I do not certainly care if deterrent punishment is laid down, but the discretion must be left to the court. Therefore, I beg to submit that the word "void" should be changed to "voidable". These are the two amendments that I want to move—one in sub-clause (*1*) and the other in sub-clause (*3*) of the new sub-clause 37, moved by the Hon'ble Mr. Suhrawardy.

Mr. JATINDRA NATH BASU: Sir, I want that the new sub-clause (*4*) of clause 37 be deleted. Dr. Sanyal has pointed out that there are many transactions in which the security is effected by mere endorsement of a document which goes over to the lender, and the money is obtained. The Hon'ble Mr. Suhrawardy in presenting this Bill before this House has only in his mind the picture of the ignorant borrower who is a cultivator and who is likely to be swindled by the lender. But the fact remains that a very large amount of transactions —much bigger transactions—is carried on by a class who do not belong to that class of borrowers, and who know what they are doing and the law has always afforded facilities to that class of borrowers to obtain money. The Hon'ble Mr. Suhrawardy knows that in the seaport towns under the Transfer of Property Act a man may deposit the title of his property and obtain money without any writing at all——

The Hon'ble Mr. H. S. SUHRAWARDY: Why are the title deeds have blanks left in them?

Mr. JATINDRA NATH BASU: The title deeds will be there, but there is no writing about the loan. What clause 37(*1*) requires is that——

The Hon'ble Mr. H. S. SUHRAWARDY: If there is writing, there should be no blank.

Mr. JATINDRA NATH BASU: I quite agree there. But there should be no compulsion to have a writing. That is why I say that you cannot require a party to have a particular kind of writing. It may be, for instance, a mere endorsement; by endorsing a delivery order of, say, hessian cloth, a man may obtain a loan of a lakh of rupees from a party or from a bank. That endorsement is enough. There is no reason why that endorsement on the delivery order should also include the rate of interest, the number of instalments, and so forth. This is never done. Simply because there is some kind of writing the Hon'ble Mr. Suhrawardy wants by this section to impose extraordinary conditions and require all particulars to be stated. I therefore suggest that sub-clause (*i*) of clause 37 be deleted.

As regards my other amendment, that is to say, that in the case of a commercial loan what I desire to provide is that if there is a writing relating to a loan and the loan is described in that writing as a commercial loan, then the burden of proving that the loan was not a commercial loan, should be on the borrower. But if there is no such writing then the burden of proof that the loan was a commercial loan shall be on the money-lender. This is for this very simple reason that the borrower's books which have to pass through the hands of the income-tax officers, the borrowers' auditors and so forth render it necessary for the borrower to hold them. Thus the lender will not have in his hands materials which will show the exact nature of the loan. Therefore where the borrower states in the document itself, by which the loan is transacted, that the transaction is a commercial loan and then ultimately when the claim is made against him he urges the plea that it is not a commercial loan, the onus, as in ordinary law, should be on the borrower to show that it is not a commercial loan. It will be difficult in the circumstances of everyday transactions, of which Mr. Suhrawardy is well aware, for the money-lender to show that the money was advanced for the purpose of a commercial transaction as he cannot have in his hands materials to prove it. The lender makes over the money to the borrower and the borrower alone knows as to how he applies the money. The application will appear from the entries the borrower makes in his books, and from his vouchers. But these will

not be kept by the lender. In that way the lender is placed in undue difficulties. That is why I propose that if on the face of the document it appears that the transaction is a commercial loan, if the borrower urges that it is not a commercial loan, then the onus of proof should be on the party that makes the allegation that it is not a commercial loan.

Rai HARENDRA NATH CHAUDHURI: The issue that I propose to raise by my short-notice amendment to delete the words "sub-section (*1*) or" from sub-clause (*4*) suggested by the Hon'ble Mr. Suhrawardy is a much more limited issue than what has been raised by Mr. J. N. Basu by his short-notice amendment (No. 1303B). It is of a much more limited scope also in comparison with the amendment that has been moved by my friend Dr. Sanyal, viz., to substitute the word "voidable" for the word "void". Now, Sir, so far as I understand, the present scheme of the Hon'ble Mr. Suhrawardy in respect of clause 37 is this: Clause 37(*1*) prohibits false entries. Clause 37(*2*) provides for punishment for such entries. Clause 37(*3*) provides against or rather prohibits pseudo-commercial loans. Clause 37(*4*) provides for the avoidance of loans in respect of which false entries have been made. Clause 37(*5*) relates to the burden of proof in cases of Commercial loans.

Now so far as clause 34(*1*)—prohibition of false entries—is concerned, the punishment for disregarding the prohibition is provided for in the next sub-clause thus, *viz.*, whoever intentionally makes false entries will be liable to imprisonment and also to fines. I have nothing to say against that. Surely intentional false entries deserve to be punished with imprisonment or with fine as the case may be; but why two punishments, criminal as well as civil, must be provided for one offence? That is the question. Original sub-clause (*3*) or the present sub-clause (*4*) as suggested by the Hon'ble Mr. Suhrawardy further provides for the avoidance of the whole transaction and not for the part to which the false entries relate. Take for instance, there is a bond for Rs. 3,000. It is found by the court after enquiry that really the transaction was for Rs. 2,000. Now for that false entry the money-lender is punished with imprisonment or fine under sub-clause (*2*). Well, he pays the penalty for his offence; but why should the transaction be nullified even in respect of Rs. 2,000, *i.e.*, the amount for which actually the consideration passed. I for one cannot understand why additional punishment for the avoidance of the whole transaction should be provided over and above the provision for punishment with imprisonment and fine. In sub-clause (*4*) Mr. Suhrawardy provides for the avoidance of two kinds of transactions—transactions involving false entries in non-commercial cases as well as transactions which are pseudo-commercial in character if I

may say so. My point is this that so far as non-commercial transactions are concerned, if it be proved or if it be found by the court that a transaction was not a *bona fide* transaction in respect of the whole amount that is stated in the instrument, why should that much of the transaction which is based on actual payment be nullified? Let me repeat my example which Mr. Suhrawardy did not care to listen. If a court enquires into a loan of Rs. 3,000 and after due enquiry it is found that it is not really a loan of Rs. 3,000 but only of Rs. 2,000, then, after the money-lender is punished with imprisonment and fine, why should the whole transaction, again, be void—the transaction in respect of even Rs. 2,000 that actually passed by way of a loan from the lender to the borrower? You have penalised him for the fraud by providing for his punishment with imprisonment as well as fine. Why should that part of the transaction then that is not vitiated by fraud should be nullified and the money-lender deprived of the actual amount advanced by him? You have got to explain that.

I have also to say a few words as regards pseudo-commercial loans. I can understand even if the Hon'ble Mr. Suhrawardy goes to the length of making those transactions voidable, because the whole character of the loan there is changed. It was a non-commercial loan although it purported to be a commercial loan. The lender there tried to avoid the provisions of the Act in respect of the whole loan and for that he has to be suitably punished. Yet, before making the whole transaction void the Hon'ble Mr. Suhrawardy ought to remember the punishment that is already being inflicted for attempting to pass a non-commercial loan for a commercial one. One can understand the provision for making such transactions nugatory from the point of view of civil law but then the penal provision should not have been thought of or included in the bill as it has been done in sub-clause (*2*).

Mr. DEBI PROSAD KHAITAN: I wish to say a few words in support of the amendments that have been moved by Mr. Jatindra Nath Basu and Dr. Nalinaksha Sanyal. I will first deal with the amendments that have been moved by Mr. Jatindra Nath Basu to amendment No. 1303 A moved by the Hon'ble Mr. Suhrawardy. Sir, I will take first of all amendment No. 4 under No. 1303 A. It says "notwithstanding anything contained in any law for the time being in force, any note, promise to pay, power of attorney, bond, security or document referred to in sub-section (*1*)——"

Mr. SPEAKER: Mr. Khaitan; I think it would be better if I adjourn the House to-day. This is a very complicated section and various members want to speak on this amendment to-morrow. I

think honourable members will kindly help me to-morrow to finish all the clauses except Nos. 28, 29 and 34. What I suggest is that to-morrow we shall finish all the clauses and day after to-morrow and the next day—these two days—we will take up clauses 28, 29 and 34. I hope honourable members will see that they are finished within these two days.

Adjournment.

The House was then adjourned till 4-45 p.m. on Wednesday, the 21st June, 1939, in the Assembly House, Calcutta.

Proceedings of the Bengal Legislative Assembly assembled under the provisions of the Government of India Act, 1935.

THE ASSEMBLY met in the Assembly House, Calcutta, on Wednesday, the 21st June, 1939, at 4-45 p.m.

Present:

Mr. Speaker (the Hon'ble Khan Bahadur M. AZIZUL HAQUE, C.I.E.) in the Chair, 8 Hon'ble Ministers and 191 members.

STARRED QUESTION

(to which oral answer was given)

Floods due to obstruction to free flow of water of river Halda in Chittagong.

***515. Mr. MIRZA ABDUL HAFIZ:** (*a*) Is the Hon'ble Minister in charge of the Communications and Works Department aware—

(*i*) that since the construction of the Kalurghat Bridge over the river Karnafuli on the Chittagong-Duhazari section of the Assam-Bengal Railway, frequent floods have been devastating the entire lowlying lands on both the banks of the river Halda,

(*ii*) that the Assam-Bengal Railway authorities for the preservation of the said Bridge have been massing heaps of stones on the river bank; and

(*iii*) that the already obstructed free flow of water are being still more obstructed?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state what steps, if any, does he propose to take in the matter?

MINISTER in charge of the COMMUNICATIONS and WORKS DEPARTMENT (the Hon'ble Maharaja SRISCHANDRA NANDY, of Cossimbazar): (*a*) (*i*) It appears to be generally believed in the locality that flooding with consequent damage to crops on the lowlands on both sides of the river has been more frequent since the construction of the bridge.

(ii) A quantity of stones was collected on the river bank for the purpose of building a submerged bund. I am informed that the bund has been constructed and that there is now no stone on the bank.

(iii) No.

(b) I propose to make further inquiries regarding the flooding referred to in part (a) (ii). The action to be taken will depend on the result of these inquiries.

GOVERNMENT BILL.

The Bengal Money-lenders Bill, 1939.

Clause 37.

Mr. SURENDRA NATH BISWAS: Mr. Speaker, Sir, I rise to support the amendment moved by my friend Dr. Sanyal, and also amendment No. 1303(moved by Mr. Jatindra Nath Basu to clause 37. Sir, the amendment of Mr. Basu states that the onus of proving that a loan is a commercial loan should be on the borrower if there is anything in writing relating to the loan and in that writing the loan is described as a commercial loan, but in the absence of any such writing the onus of proving that the loan is a commercial loan should be on the money-lender. In my opinion this amendment demands a reasonable consideration and our request to the Hon'ble Minister to accept this amendment is, in my opinion, a very modest one. Sir, what is a commercial loan as defined by amendment No. 87A? By amendment No. 87A the commercial loan has been defined to be a loan which must be in substance a loan to be used solely for any of the purposes referred to in clause (3A). Now, Sir, a borrower borrows money saying that he wants the money for commercial purposes, *i.e.*, for one of the purposes mentioned in clause (3A). Now, Sir, the most businesslike way that the money-lender can adopt is to enquire whether the borrower was really asking for a loan for commercial purposes. His enquiry will be *bona fide*, but it cannot be expected of the money-lender to follow the money in the hands of the borrower to see that the amount of loan is used finally solely for the purpose of the business mentioned by the borrower at the time of taking the loan.

The Hon'ble Mr. H. S. SUHRAWARDY: Then why did you give your consent to the definition?

Mr. SURENDRA NATH BISWAS: Look at your amendment No. 87A. Therein it is stated in the explanation: "Notwithstanding anything contained in any agreement relating thereto a loan shall

not be deemed to be a commercial loan unless it is in substance a loan to be used solely for any of the purposes referred to in clause (3A)". Sir, to this we had no objection, but by the new amendment of the Hon'ble Mr. Suhrawardy, amendment No. 1303A, [sub-clause (5)] he wants that the onus of proving that a loan is a commercial loan must be always on the money-lender. Against that we protest. We say in all cases that the onus of proving that the loan was a commercial loan should not be on the money-lender because if the money-lender is charged with the responsibility, then he will have to follow the money in the hands of the borrower to see that the borrower uses the money solely for the purpose of business. I submit, Sir, that this is an absurd proposition. A borrower will take the money from the hands of the lender; then the lender cannot go with the borrower to see that the money is used solely for the purpose of business. The borrower may live some miles apart and the borrower may or may not use the money at one time. He may use the money in the course of a few months. How is it possible, Sir, for the lender to see that the borrower uses the entire amount of money solely for the purpose of business? If that is not possible, and I submit that it is not possible, will the Hon'ble Mr. Suhrawardy reconsider the question of laying the onus of proving that a loan is a commercial loan on the money-lender alone? Our contention is that the money-lender will certainly prove that a loan is a commercial loan if there is no written document to that effect; but if there is a written statement made by the borrower that the loan was taken as a commercial loan and he wanted it for business purposes, the onus of proof should be on the borrower. That would be consistent with the provisions in the Evidence Act. Otherwise section 92 of the Evidence Act will be a bar against proving that the contents of the document were not correct. Now, Sir, if this sub-clause (5), as contained in amendment No. 1303A, is accepted, this will clash with the Evidence Act, because if in a suit, where the issue will be as to whether the loan was a commercial loan or not, the money-lender proves that the document creating that transaction contains a recital that the loan was a commercial loan, how could the defendant ask the plaintiff to prove that the loan was not really a commercial loan. It cannot stand the law. So, I submit that it militates not only against the Evidence Act but it also militates against common sense. Secondly, we find that sub-clause (4) provides that the lender has to prove that the loan was a commercial loan and if the lender cannot prove that the amount of loan was solely for the purpose of business, then the whole transaction becomes void. Sir, this is simply preposterous. I would, therefore, request the Hon'ble Mr. Suhrawardy and the members of the Coalition Party to put their mind into it. Suppose there is a recital in the document that the loan was a commercial loan and the money-lender proves that at least a part of

the money was used for the purpose of some business to his knowledge but fails to prove that the balance was actually used for the same purpose, in that case, according to this law, if it is passed, the Court will come to the finding that the plaintiff could not prove that the loan was a commercial loan. And what will be the result? The result will be that the whole transaction will become void, and the lender will not get a single pie. Whether this is a spurious piece of legislation or not, it is quite easy to understand this. I submit to the Hon'ble Mr. Suhrawardy to please consider this aspect of the case. If such a law as this is passed, I am afraid no commercial loan will be given. So, what the Hon'ble Mr. Suhrawardy has given with one hand he is taking away with the other, and the banks and other money-lenders will think thrice before lending any money as commercial loan, because the banks and other money-lenders will find it very difficult to prove that the money taken by the borrower was really and solely used for the purpose of business. In that case, Sir, no commercial loan will be given. And how can trade, commerce and industry run without commercial loans? Sir, from the operations of this Bill the scheduled banks have been exempted, but other banks will come under its operation. Apart from the question of protection —whether this exclusion means protection or not—I submit that giving a commercial loan would be a very dangerous thing on the part of the bank or of the money-lender because it will be impossible on their part to prove that the borrower after taking the money will use it solely for the purpose of business. It will be impossible on the part of the banks or other money-lenders to prove by facts or otherwise that the money was solely used for the purpose of business. In the face of these difficulties, Sir, I submit that the amendment moved by Mr. Jatindra Nath Basu should be accepted.

Dr. NALINAKSHA SANYAL: Sir, I would like to add only a few words.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, Dr. Sanyal has already spoken.

Dr. NALINAKSHA SANYAL: No, Sir, not on this. I fully sympathise with the Hon'ble Mr. Suhrawardy in his anxiety to get the amendment—the short notice amendment No. 1303A—passed in its entirety, because I know, this was one of the conditions which he had held out to his party while he obtained their sanction for the exemption of the commercial loan. But I have no other alternative than to support the motion of Mr. Jatindra Nath Basu because I feel as a layman that there may be no end of trouble, and no amount of interference by the creditor will be spared if the clause, as it now stands, is retained.

I support the amendment of Mr. Jatindra Nath Basu on grounds different entirely from what Mr. Surendra Nath Biswas has argued. I am not anxious to support Mr. Basu's amendment only to give the privilege to the creditor and only to provide him with an opportunity of saying that he had actually advanced loan on commercial transaction but mainly with a view to make such loans possible and for the debtors to obtain loans of this character. If, as is stated in sub-clause (5), the onus of proof is entirely and in all cases laid on the money-lender, the money-lender naturally would like to have a degree of control over the business transaction which may not always be healthy. In commercial loans, as the House may be aware, the money-lender—if the money-lender is a bank—often gets, in some particular classes of transaction, some of their own men posted in the premises of the businessmen, in order to ascertain whether the money advanced is actually directed towards the purpose for which it is advanced. Such things are not rare. When money is advanced on a running lien or hypothecation of the products of a mill, it is not unusual for a bank to post on the mill or near the godown of the mill one of the officers of the bank itself to watch how things are actually transacted. If the Hon'ble Mr. Suhrawardy contemplates such loans only he can very well retain the clause as he has drafted, but there are other classes of commercial loans where the borrower takes out money to far-off places for the purchase of stock materials or for enabling him to dispose of his finished goods. In cases like that it would be virtually impossible for the money-lender to keep an eye on the transaction in all its stages and to find out definitely whether the whole amount advanced has been or is being spent for the purpose for which it has been advanced. (The Hon'ble Mr. H. S. SUHRAWARDY: Let him charge ten per cent.) He will certainly not be in any way unwilling to charge ten per cent. or less, but the provision, as it now stands, is that in case it is proved that even a part of the amount has been diverted towards some kind of expenditure not covered by the term "commercial loans", then the entire transaction would be void.

Sir, if the Hon'ble Mr. Suhrawardy had so re-drafted his clauses as to cover only such classes of transactions, where it is humanly possible to keep an eye on all the transactions of a money-lender, I would certainly welcome these amendments. If, on the other hand, the Hon'ble Mr. Suhrawardy had stated that in case it were proved that a part of the loan, if not the whole of it, was diverted to some purpose other than commercial loan, then, so far as that part goes, the ordinary provisions of the Money-lenders Act would apply, we could have understood it. But, Sir, with the provisions of the Bill as they stand, even if a money-lender, with all *bona fide* intentions, advances a loan for commercial purposes—and commercial purposes only—and it subsequently transpires that a part of that amount which was taken from

him on the assurance of commercial transactions has been diverted to other purposes, then, Sir, as is provided in this clause, the whole transaction will fall through. It will be void and it will be unenforceable. That being the position, the importance of evidence in regard to commercial loans becomes all the more evident. I submit, Sir, that henceforth it will be impossible for any debtor or any businessman who carries on his business with loans obtained from bankers—and probably every businessman has to do that—or from other parties to carry on his business; such businessmen will always meet with a tremendous amount of interference at every stage of their business. Wherever they will make out a cheque covering the amount of the loan either in whole or in part or any portion of it, the money-lender will have to satisfy himself that this cheque is actually going to liquidate a transaction that is entirely for commercial purposes, so that a new kind of interference will arise. Will that conduce to the development of trade, industry, and business of this province? This is exactly what is troubling me, Sir. If the Hon'ble Mr. Suhrawardy will kindly allow me a little indulgence, I would only request him to apply his judgment to this aspect of the question, and it is furthest from my mind to go back on the understanding arrived at between us and the Government that if commercial loans are excluded, then we shall see that adequate protection is provided, so that there may be no evasion of law. I am perfectly prepared just now, and also at any stage, to stand by my understanding of that character arrived at between that side of the House and this side on this question, because it was I who ultimately had to press for the exclusion of commercial loans. If anything better could be devised, I would certainly lend my support to such an improvement. It is only in the absence of such an improvement that we have to fall back upon the amendment of Mr. Jatindra Nath Basu. I realize, Sir, that that amendment is not perfect, because it is quite possible—and in the rural areas it may very often take place—that a money-lender can get a written agreement to the effect that the loan was advanced for commercial purposes and thus evade the operations of the Act. If the Hon'ble Mr. Suhrawardy can through his superior wisdom suggest some other alternative, I would only be too glad to support it. If not, I would advise him to leave his judgment for the time being and submit to the judgment of Mr. Jatindra Nath Basu, a solicitor of reputation, and I submit, Sir, that probably not much harm would be done if we were to ask him to suitably redraft it in such a manner that both the points of view would be satisfied.

With these words, Sir, I support the amendment of Mr. Jatindra Nath Basu.

The Hon'ble Mr. H. S. SUHRAWARDY: Mr. Speaker, Sir, there is an animal (Rai HARENDRA NATH CHAUDHURI: What? An animal?)

—an animal which is known as the brain-fever bird. It is called the brain fever bird, because it has brain fever and goes on repeating the same thing over and over again on a long note. It is also called the brain fever bird, because it gives brain fever to others by its constant repetition. How it is possible to deal with this subject after the speeches of the two honourable members who spoke last and who repeated the same thing which they had said before and which they are perhaps going to utter again, it is difficult for me to forecast.

I will take up the amendments one by one. There is an amendment of Dr. Sanyal to the effect that after the word "instrument" we should add the words "other than shares, *hundies* and such instruments used for commercial transactions". I think, Sir, that this amendment had been tabled and expatiated upon under a misunderstanding. The clause does not debar securities that contain blanks, such as blank transfer shares from being given as securities. The word "instrument" here must be read with the first lines, namely, "any note, promise to pay, power of attorney, bond or security," and they must be of the same kind as these, namely, that the instrument must be such as creates the loan. (Mr. SURENDRA NATH BISWAS: Why don't you add those words?) Any lawyer who knows the law of interpretation knows the meaning of the term *ejusdem generis*, and on that basis this "instrument" refers to an instrument which creates the loan. Now it is not proper that an instrument which creates the loan should have blanks. Along with that if you give as security blank transfers or such documents which have blanks, there is not the least harm. They are not covered by section 37. So, I do not think that there is any substance in the amendment of Dr. Sanyal.

Then comes the amendment that instead of the word "void" we should have the word "voidable". Now, actually the words "void" and "voidable" in a case of this type are synonymous, the whole question being that it is likely to be void. Why should we then render it voidable? The object of these amendments is to prevent firstly collusion and unconscionable transactions. If a money-lender knowing fully well that the loan which he is giving is not a commercial loan sets it down as a commercial loan, he is doing so to evade some or other of the provisions of this Act—either evade the section dealing with interest or evade the section dealing with licensing of money-lenders or evade those responsibilities which are imposed on every money-lender, such as, keeping account-books according to a certain prescribed form and delivering accounts to the borrowers. Why should any money-lender who is acting so as to evade the provisions of the law not run the penalty of having the loan rendered void.

Rai Harendra Nath Chaudhuri stated that the money-lender is being brought under two punishments, and that he should not be brought under

two punishments, namely, imprisonment and fine on the one hand and his documents being rendered void on the other. We have purposely drafted the section so as to prevent the misdescription of a commercial loan, being visited by a double punishment. He will come under one section only, namely, that of the transaction being rendered void. The two punishments will only apply in the case of an instrument being kept blank to be filled in at a later date.

Rai HARENDRA NATH CHAUDHURI: Will you please explain the section?

The Hon'ble Mr. H. S. SUHRAWARDY: If you read it again you will find that in the case of a loan being misdescribed as a commercial loan, the only penalty is that of his document being rendered void and unenforceable and the penalty of punishment by imprisonment does not apply.

I now come to Mr. Basu's amendment. Although it may appear sound, it is not really so. There is no reason why even if it is specially mentioned in writing that it is a commercial loan, the onus should be on the borrower. The two parties, namely, the borrower and the money-lender, are not in an equal place. It is feared that the money-lender will take advantage of the helplessness and the necessities of the borrower and so he will misdescribe an ordinary loan as a commercial loan. It is to avoid this that the clause has been inserted. Now, if you say that as soon as it is in writing, the onus must be on the borrower, the entire purpose of all these sections will be defeated. There is no difference, in my view, whether it is in writing or it is not in writing. I may again point out that I do not desire to go back on the understanding under which I moved the definition with regard to commercial loans, that is to say, that the definition and the exclusion of commercial loan are bound up with this amendment. We arrived at this compromise after a considerable amount of thought and care, the purpose being that we should make the definition and punishment so watertight that nobody will be induced to go in for a commercial loan, at any rate, no money-lender will be induced to go in for a commercial loan if he is not satisfied that it is for commercial purposes.

Now, Sir, Dr. Sanyal has stated that the definition of commercial loan implies that the money-lender may have to post somebody at the very door of the borrower in order to find out that every single pice has been actually spent on commercial transactions. If you will read the definition of commercial loan, you will find that it is stated that the money is to be used for that purpose and not that it has been used for that purpose and under those circumstances there is absolutely no danger, if there is good faith on the part of the money-lender, that

such circumstances will arise. Let me once more point out to those who are so anxious to spare the money-lender that the money-lender need have no fear of any kind at all if he conforms to the interest provisions and gives out money at the rate of interest provided in the Bill. If he gives out money at that rate of interest, there is no fear for him at all nor can any of the penal sections be attracted.

The motion of Dr. Nalinaksha Sanyal that in clause 37 (*1*), in line 7, after the word "instrument" the words "other than shares, hundies and such instruments used for commercial transactions" be inserted, was then by leave of the House withdrawn.

The motion of Mr. Jatindra Nath Basu that sub-clause (*4*) of clause 37 as proposed by amendment No. 1303A tabled by the Hon'ble Mr. H. S. Suhrawardy be omitted, was then put and lost.

The motion of Dr. Nalinaksha Sanyal that in clause 37 (*3*), line 3, for the word "void" the word "voidable" be substituted, was then put and lost.

The motion of Rai Harendra Nath Chaudhuri that in clause 37 (*4*) as proposed by the Hon'ble Mr. H. S. Suhrawardy in his amendment No. 1303A, the words "sub-section (*1*) or" be omitted, was then put and lost.

The motion of Mr. Jatindra Nath Basu that for sub-clause (*5*) of clause 37 as proposed by amendment No. 1303A., the following sub-clause (*5*) be substituted, namely:—

> "(*5*) If in any writing relating to a loan, the loan is described as a commercial loan, the burden of proving, that the loan was not a commercial loan, shall be on the borrower; but if there is no such writing, then the burden of proof, that the loan was a commercial loan, shall be on the money-lender",

was then put and lost.

Mr. SPEAKER: That disposes of all the amendments.

The motion of the Hon'ble Mr. H. S. Suhrawardy that for sub-clause (*3*) of clause 37, the following be substituted, namely,—

> "(*3*) No money-lender shall take from any borrower or intending borrower any note, promise to pay, power of attorney, bond or security which describes or refers to as a commercial loan any loan which is not a commercial loan.
>
> (*4*) Notwithstanding anything contained in any law for the time being in force, any note, promise to pay, power of attorney, bond, security or document referred to in sub-section (*1*) or sub-section (*3*) shall be void and unenforcible. "

(5) Notwithstanding anything contained in any law for the time being in force, in any suit or proceeding the burden of proving that a loan is a commercial loan shall be on the money-lender who advanced the loan."

was then put and agreed to.

Mr. SPEAKER: That disposes of clause 37.

Clause 37B.

Mr. SPEAKER: We will now take up clause 37B.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that clause 37B be deleted.

Dr. NALINAKSHA SANYAL: Sir, is this now permissible?

The Hon'ble Mr. H. S. SUHRAWARDY: Actually this is a consequential amendment In view of the fact that commercial loan has been excluded

Mr. SPEAKER: I think, you should move it later on.

In view of the Government amendment, it is not necessary to move any other amendment on this clause.

Clause 38.

As no amendments on clause 38 were moved, the clause was disposed of.

Clause 39.

The Hon'ble Mr. H. S. SUHRAWARDY: I have got an amendment on clause 39 which I circulated long ago.

(Several members cried out that it was never circulated.)

Mr. SPEAKER: What is the effect of your amendment?

The Hon'ble Mr. H. S. SUHRAWARDY: The effect is nothing.

Rai HARENDRA NATH CHAUDHURI: Then why do you move it?

The Hon'ble Mr. H. S. SUHRAWARDY: The clause, as it stands, has been badly drafted and it has been redrafted here.

Mr. SPEAKER: Will you read the amendment as you propose to move?

The Hon'ble Mr. H. S. SUHRAWARDY: When any money-lender knowingly and wilfully commits, authorises or permits any default in complying with or any contravention of any provisions of this Act, if the money-lender is—

(*a*) an individual, such individual, or

(*b*) an undivided Hindu family, the manager of such a family, or

(*c*) a body corporate, the directors, the manager and all other officers of such body, or

(*d*) an unincorporated body, all members of such body,

shall——

Mr. SPEAKER: There is nothing but a change of one or two words. I am reading the amendment. It is this: that in place of the following lines beginning with "whoever makes default" up to "contravention", the following be substituted:—viz., when any money-lender knowingly and wilfully commits, authorises or permits any default in complying with or any contravention of——

Are you perfectly sure, Mr. Suhrawardy, that your draft is all right?

Dr. NALINAKSHA SANYAL: In (*c*) you have used the words "all other officers" which may mean even peons and durwans.

Mr. SPEAKER: Mr. Suhrawardy, you must take the responsibility. I am not feeling very happy over this drafting. How do you govern the word "contravention"?

The Hon'ble Mr. H. S. SUHRAWARDY: Commits any contravention or permits any contravention or authorises any contravention.

Mr. SPEAKER: Anyway there is too much transfer of tense. Mr. Suhrawardy, will you formally move it?

The Hon'ble Mr. H. S. SUHRAWARDY: I beg to move that in clause 39 (*1*), for the words, letters and brackets commencing "whoever makes default" and ending "such default or contravention" the following words, letters and brackets be substituted, namely:—

"39(*1*) When any money-lender knowingly and wilfully commits, authorises or permits any default in complying with or any contravention of, any provision of this Act, if the money-lender is—

(*a*) an individual, such individual, or

(*b*) an undivided Hindu family, the manager of such family, or

(*c*) a body corporate, the directors, the manager and all other officers of such body, or

(*d*) an unincorporated body, all members of such body——".

Mr. SPEAKER: The question before the House is the amendment of the Hon'ble Mr. Suhrawardy.

Dr. NALINAKSHA SANYAL: We have got our amendments.

Mr. SURENDRA NATH BISWAS: Sir, I beg to move that in clause 39 (*1*) (*c*), lines 1 and 2, for the words "directors, the manager and all other officers", the words "director or the officer in charge" be substituted.

Dr. NALINAKSHA SANYAL: Sir, I beg to move that in clause 39 (*1*) (*c*), in line 2, after the word "other" the word "responsible" be inserted.

Mr. SURENDRA NATH BISWAS: Sir, I beg to move that in clause 39 (*1*), (*d*), in line 1, for the words "all members" the words "the member or officer-in-charge" be substituted.

Sir, I beg further to move that in clause 39(*1*) (*d*), (*iii*), lines 1 to 3, for the words "with rigorous imprisonment which may extend to three months and shall also be liable to fine" the words "with fine which may extend to one thousand rupees" be substituted.

Dr. NALINAKSHA SANYAL: Sir, I beg to move that in clause 39(*1*) (*d*), (*iii*), in line 3, after the word "fine" the words "not exceeding Rs. 1,000" be inserted.

Mr. ASIMUDDIN AHMED: Sir, I beg to move that in clause 39 (*2*), in line 3, after the words "registrar" the words "or a sub-registrar or on a permission from any one of the said authorities" be inserted.

Sir, I beg further to move that after clause 39(*4*) the following new clause be added, namely:—

"(*5*) Offences under this Act shall be cognizable and bailable".

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I beg to move that in clause 39 (*2*) the following words be added at the end, namely:—

"or of a person authorised in this behalf by the Provincial Registrar or a Registrar".

I think this is a better drafting than the amendment moved by Mr. Asimuddin Ahmed.

Mr. ASIMUDDIN AHMED: Sir, I beg to withdraw my amendment (No. 1347).

The motion of Mr. Asimuddin Ahmed that in clause 39 (2) in line 3 after the word "Registrar" the words "or a Sub-Registrar or on a permission from any one of the said authorities" be inserted was then by leave of the House withdrawn.

Mr. SURENDRA NATH BISWAS: Sir, in support of my amendment No. 1338 I say that clause 39, as it stands now, after being amended by the Hon'ble Mr. Suhrawardy provides that if any body corporate be found guilty of an offence under section 39, then the directors, the manager and all other officers of such body shall be penalised. I submit that this is absolutely an unnecessary penal clause. We do not object to the offender being punished. But who can be the offender? The offender can be he who is the director or the officer in charge and who is responsible for compliance with the requirements of the provisions of this Act. All the directors do not look to the working of the company in respect of all details. There is always a division of work in a company amongst the directors and there is always a division of work amongst the officers. All officers cannot be held responsible for all actions. I do not understand why the members of the Coalition Party want to penalise everybody serving in a company, whether he is a director or a petty clerk or in any way connected with the company.

Maulvi ABU HOSSAIN SARKAR: Because it is a sin to be in that company.

Mr. SURENDRA NATH BISWAS: If it is a sin to be in a company where one officer may commit an offence, then I think most of the members of this House will be put into prison within the next month.

Maulvi ABU HOSSAIN SARKAR: What is the objection?

Mr. SURENDRA NATH BISWAS: My amendment wants: let the director or the officer who has been charged with the duty of complying with the provisions of the Act be held responsible and be punished if any offence is proved but not all the directors and all the officers. This is a humble request, and I hope there can be no argument against what I say and against punishing only the man who is responsible for the offence.

Then, Sir, in support of my amendment No. 1342 I beg to submit that sub-clause (*d*) of clause 39 provides that if an unincorporated body is found to have committed an offence under this clause all members of such body shall be punished. This is also preposterous. In an unincorporated body there may be hundred members. It is common

knowledge that such a body is managed by some manager or officer. If anybody is responsible for complying with all the details which are required to be complied with by this Bill, then the man who is in charge, that is to say, the man who is responsible for such compliance should be held responsible. Why all the members of that unincorporated body? My amendment is: let the member or officer-in-charge of such an unincorporated body be punished. This is also a humble request. I request the members of the Coalition Party to apply their sanity to what I say, if they have got any. The Hon'ble Mr. Suhrawardy says that we are suffering from brain fever. But I submit that this is a sort of compliment to us, because we have brains and therefore we may suffer from some sort of fever, but the Hon'ble Mr. Suhrawardy is at times found not to have any brains. Sir, I do not know what kind of brains he has displayed in providing for punishing all the members of the unincorporated body where only the manager manages the whole affair, and if anybody is responsible it is the manager only. And what has prompted him to penalise all the directors of a bank, which bank has got a managing director to manage its affair and who is responsible for looking to all the details of the provisions contained in this Bill? With these words, Sir, I commend my amendments Nos. 1338 and 1342 to the acceptance of the House.

Then, Sir, with regard to my amendment No. 1344, I beg to submit that the penalty which has been provided in this clause is very harsh. It is provided that if any money-lender is found not to have complied with any provision of this Act, then that money-lender will be found guilty under section 39. There are many minute details for non-compliance with which the money-lender may be technically guilty, but the money-lender may not have injured anybody by not complying with a particular minute detail. This Bill provides that for the first offence the punishment will be a fine of Rs. 200, for the second it will be Rs. 500, and for the third, imprisonment which may extend to three months as also a fine. I submit that for the main offences the section has provided severe punishments, but there is a general clause for punishment for non-compliance with the provisions of the Act, but there severe punishments have not been provided. So, for a general clause like this which provides for the same kind of punishment for all kinds of offences, I think the penal clause should not be so harsh as has been laid down in sub-clause (3). I submit that the clause so far as it provides for imprisonment to the extent of three months be deleted. Let the third offence be punished with a fine of Rs. 1,000. Why should there be imprisonment in addition to a fine?

Mr. SPEAKER: I think, Mr. Biswas, so far as that point is concerned, whatever might be in the draft, Mr. Suhrawardy's intention is that only that person will be responsible who knowingly and willingly makes such default.

Mr. SURENDRA NATH BISWAS: All right, Sir, I am very thankful to you. With regard to the punishment clause, I was placing my case before the House that when there is a clause for punishing all kinds of offences—I mean, technical offences—for which no punishment——

The Hon'ble Mr. H. S. SUHRAWARDY: I may point out that the draft, as it stood, very likely covered it, because a person who knowingly and wilfully makes, authorises or permits such default, comes after (*a*), (*b*), (*c*) and (*d*), and therefore in all probability it is meant to cover only such manager, directors and other officers who knowingly and wilfully make such a default and in the case of an incorporated body such members of the body who knowingly and wilfully make such a default.

But, now, Sir, in the new amendment which I have put in and which has nearly upset the order, in all probability it has left men not liable for a default or a contravention, and I would like to amend it in such a way as to make it clear that only such directors, managers and other officers, and in the case of an incorporated body only such persons who knowingly and wilfully make, authorise or permit such default or contravention will be affected.

Rai HARENDRA NATH CHAUDHURI: Will you please put up your draft, Mr. Suhrawardy?

Mr. SURENDRA NATH BISWAS: We shall be glad to have a draft of the new amendment.

When the Hon'ble Mr. Suhrawardy has gone so far, will he be able to go a little further and delete the provision for imprisonment and be contented with a fine of Rs. 1,000 as punishment in the case of the third offence? Let there be an agreement. The Hon'ble Mr Suhrawardy will remember that he has provided for very severe punishments with regard to several other clauses which, I admit, really demand punishment. Will he please reconsider his decision and modify his clause by deleting the word "imprisonment"?

The Hon'ble Mr. H. S. SUHRAWARDY: I am sorry, Sir, I cannot agree. I only accept amendments which are reasonable. The first amendment of Mr. Surendra Nath Biswas was reasonable. It was one worth considering. But with regard to punishment, as I have pointed out on a previous occasion, there is really no point in his amendment which aims at nothing but cheese-paring. That is a matter which has been left to the discretion of the Court. The Court will give punishment as it deems fit. If we go on trying to whittle down or reduce the punishment, somebody else may come up and say why not reduce it still further. It is not worth while to make amendments of that type.

Mr. SURENDRA NATH BISWAS: Sir, Mr. Suhrawardy says that the question of punishment be left to the discretion of the Court, but the clause itself does not give that power to the Court. Here in sub-clause (*3*) we find that the punishment for any subsequent offence is rigorous imprisonment which may extend to three months as also fine. What I want is that the Court be given power to pass a sentence of imprisonment or fine or both.

Mr. SPEAKER: I think, this is all right when a money-lender knowingly and wilfully makes, authorises or permits a default, he shall be punishable under the provisions of this Act providing such penalty.

Mr. SURENDRA NATH BISWAS: I am not arguing on that point, Sir. We shall look into the draft and give our opinion. As Mr. Suhrawardy has just now said, he wants to leave the matter to the discretion of the Court. Let him do so by amending the clause, and in that case we would not press our amendment.

Mr. Suhrawardy, will you kindly change the word "and" by the word "or"?

Babu NAGENDRA NATH SEN: Mr. Speaker, Sir, a complaint has sometimes been made that in an anxiety to save the debtor a civil matter is going to be converted into a criminal matter. No one has up till this time heard that with regard to some transactions the money-lender is liable to imprisonment or something which has up till this time been regarded as a civil offence, if I am permitted to use that term. If there is some infraction—small infraction or small contravention of any of the minutest details of this laborious Act, of this ill-dratted Bill, if I am permitted to use the word, any person coming into contact with the money-lender and the money-lender himself will be liable to not only lose his money but also to be sent to jail and to be fined. That is a proposition which, I think, no form of jurisprudence has ever formulated. This is a new departure from the well-established principles of jurisprudence, which govern the usages of all civilised countries. If in the year of grace 1939, it has been felt that there is a great necessity of forging a law by which the money-lenders have to be sent to jail or to be penalised by the imposition of fines, in that case, and in that case only, can the penal provisions of section 39 of this Act be justified.

The whole crux of the thing is that the money-lender should be punished in every case, and section 39 is the embodiment of all those sentiments which go high against the creditor. The money-lender has to be punished and that with a fine of Rs. 200 in the first instance. For the second offence, the punishment goes right up to Rs. 500. Irrespective of the nature of the offence which has been committed, irrespective of the contravention or infraction which has been done,

the money-lender has to be fined. For the first offence he is to be fined to the extent of Rs. 200. This may not be high. But with regard to the second offence, the fine may extend up to Rs. 500, and for any subsequent offence he may be punished with rigorous imprisonment which may extend to three months and he shall also be liable to fine.

Look up the Indian Penal Code which has provided for the punishment of offences both minor and major, and you will find only one instance where it has been enacted that imprisonment is compulsory for the Court and that the Court is bound to inflict a sentence of imprisonment. Except in one section of the Indian Penal Code, you will find nowhere where such an imperative provision has been provided as has been provided here, namely, that punishment by imprisonment is normal and that Courts will have no option in the matter and will be bound to punish a man with imprisonment. An honourable member said that the imprisonment may be for one day or till the rising of the Court. I respectfully submit, Sir, that under the provisions of this Act the imprisonment may extend to three months' rigorous imprisonment. Take the case of an invalid, infirm, or aged money-lender or any director of a bank or any loan office, or a member of an undivided family, or, say, an unincorporated firm. Granting for the sake of argument that he has wilfully and knowingly been a party to the infraction or contravention of some provision of this Act, and that it has not been his first, or second offence but his third offence, then without looking into the gravity of the offence, and simply because it is his third offence,—however small the contravention may be—the man has to be imprisoned for a period with rigorous imprisonment and also to be fined, and the Court will have no power to interfere in the matter. The suggestion made by my friend Mr. Surendra Nath Biswas is very salutary—that instead of giving no option to the Court, let the option be with Court. If the Court thinks that a fine will meet the ends of justice and will be sufficient for the crime committed, then why compel the Court to inflict a sentence of rigorous imprisonment? A sentence of imprisonment, whether it is for one day or till the rising of the Court, is as humiliating, as painful, and as derogatory as any punishment can possibly be. Therefore, I think that the amendments which have been moved by Mr. Surendra Nath Biswas and Dr. Sanyal should be accepted by Government.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, I oppose all the amendments——.

Mr. SPEAKER: Mr. Suhrawardy so far as this section is concerned, I think it requires some re-drafting on these lines, namely, "whoever being a money-lender knowingly and wilfully makes default in complying with or in contravention of the provisions of this Act shall

where a specific penalty——" and so on, and then you give the explanation that for the purposes of this section a money-lender means in the case of an individual such individual, in the case of an undivided family, the manager, or in the case of a body corporate, the directors, the manager, and all other officers of such body, or in the case of an unincorporated body, all members of such body, so that it may exactly conform to what you mean

The Hon'ble Mr. H. S. SUHRAWARDY: Now that we have accepted the principle, on the question of re-drafting we can wait till to-morrow.

Mr. SPEAKER: That is all right then. The explanation will be separate.

Babu NAGENDRA NATH SEN: Sir, will it not be putting the cart before the horse?

Mr. SPEAKER: No—not the horse but the amendment. (Laughter.)

Mr. Biswas, you are not pressing amendment No. 1338?

Mr. SURENDRA NATH BISWAS: No, Sir. As the Hon'ble Mr. Suhrawardy has accepted the principle, I do not press it.

The motion of Mr. Surendra Nath Biswas that in clause 39(*1*)(*c*), lines 1 and 2, for the words "directors, the manager and all other officers" the words "director or the officer in charge" be substituted, was then by leave of the House withdrawn.

The motion of Dr. Nalinaksha Sanyal that in clause 39(*1*)(*c*), in line 2, after the word "other" the word "responsible" be inserted, was then by leave of the House withdrawn.

The motion of Mr. Surendra Nath Biswas that in clause 39(*1*)(*d*), line 1, for the words "all members" the words "the member or officer in charge" be substituted, was then by leave of the House withdrawn.

The motion of Mr. Surendra Nath Biswas that in clause 39(*1*)(*d*)(*iii*), lines 1 to 3, for the words "with rigorous imprisonment which may extend to three months and shall also be liable to fine" the words "with fine which may extend to one thousand rupees" be substituted, was then put and lost.

The motion of Dr. Nalinaksha Sanyal that in clause 39(*1*)(*d*)(*iii*), in line 3, after the word "fine" the words "not exceeding Rs. 1,000" be inserted, was then put and lost.

The motion of Mr. Asimuddin Ahmed that after clause 39(4) the following new clause be added, namely:—

"(5) Offences under this Act shall be cognisable and bailable.",

was then put and lost.

The motion of the Hon'ble Mr. H. S. Suhrawardy that in clause 39(2) the following words be added at the end, namely:—

"or of a person authorised in this behalf by the Provincial Registrar or a Registrar",

was then put and agreed to.

Mr. SPEAKER: That disposes of all amendments to clause 39, subject to the fact that a new draft will be put up by the Hon'ble Mr. Suhrawardy to-morrow.

Clause 40.

Mr. SPEAKER: There is no amendment to be moved to clause 40, inasmuch as Mr. Shahedali does not want to move the amendment standing in his name.

Clause 41.

Mr. SURENDRA NATH BISWAS: Sir, my amendment is a consequential one.

Mr. SPEAKER: Does it arise?

Mr. SURENDRA NATH BISWAS: I submit, Sir, that it does arise—

Rai HARENDRA NATH CHAUDHURI: Better move it first.

Mr. SURENDRA NATH BISWAS: Sir, I shall move my amendment and I do hope that the Hon'ble Mr. Suhrawardy will accept it, because it is necessary as it is a consequential amendment——

Mr. SPEAKER: Section 41 requires recasting. In view of this fact and also because some forms will have to be prescribed, I think, Mr. Suhrawardy, the best thing for you will be to put in a new draft of section 41.

The Hon'ble Mr. H. S. SUHRAWARDY: That is so, Sir.

Mr. SPEAKER: I think, it is better to leave out clause 41 now as it is purely consequential.

Dr. NALINAKSHA SANYAL: Amendment No. 1350 is consequential and may be accepted straightaway.

Mr. SURENDRA NATH BISWAS: Sir, I beg to move that after clause 41(2)(*b*)——

Mr. SPEAKER: Mr. Biswas, you had better not move it now. If you are not satisfied with the amendment that Government propose to move on this clause, I will allow you a short-notice amendment.

I think, we have finished all. We will now take up clauses 28, 29 and 34.

The Hon'ble Mr. H. S. SUHRAWARDY: Sir, you said yesterday that these clauses will be taken up to-morrow——

Mr. SPEAKER: Provided you all assure me that all these clauses will be finished by day after to-morrow.

The Hon'ble Mr. H. S. SUHRAWARDY: The consideration of these clauses will be finished by day after to-morrow and the third reading of the Bill may be taken up on Monday next.

Mr. SPEAKER: Yes, on Monday

Adjournment.

The House was then adjourned till 4-45 p.m. on Thursday, the 22nd June, 1939, at the Assembly House, Calcutta

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Index to the

Bengal Legislative Assembly Proceedings.

(Official Report.)

Vol. LIV—No. 10—Fifth Session.

14th, 15th, 16th, 20th and 21st June, 1939.

[(Q.) Stands for question.]

Abdul Bari, Maulvi

Moni Begum Deposit Fund (Q.) p. 1

Abdul Gani, Mr.

Vacancy caused by the death of —, a nominated member of Rangasree Union Board in Bakarganj (Q.) p. 36.

Abdul Hafiz Mia, Mr.

Temporary staff in the administrative department of Medical College Hospitals. (Q.) p. 14

Abdul Hafiz, Mr. Mirza

Floods due to obstruction to free flow of water of river Halda in Chittagong. (Q.) p. 166.

Abdul Hamid Shah, Maulvi

Appointments from various communities under Education Department (Q.) p. 33.

Muslim and Scheduled Castes employees in the Civil Courts of Bakarganj: (Q.) p. 35.

Abdul Wahab Khan, Mr.

Incident at Gournadi Mosque, Bakarganj: (Q.) p. 114.

Abdur Rahman Siddiqi, Mr.

Point of order regarding supplementary questions p. 38

Abu Hossain Sarkar, Maulvi

Bengal Money-lenders Bill, 1939 p. 108

Adjournment Motion

Regarding the use of tear gas by the police in connection with a strike pp. 58, 87-91.

Adjournment of the House: pp. 51, 68, 113, 165, 185

Ahmed Khan, Mr. Syed

Number of men externed from Calcutta and held under restraint (Q.) p. 84.

Post of Muslim Marriage Registrar of Burabazar, Calcutta (Q.) p. 84.

Appointment(s)

From various communities under Education Department: (Q.) p. 33.

In Industries Department. (Q.) p. 52.

Under Education Department from Muslims and Scheduled Castes: (Q.) p. 17.

Gratis

Arambagh Exhibition Funds

Contribution of Union Boards to—: (Q.) p. 122.

Asimuddin Ahmed, Mr.

Primary schools in Tippera. (Q.) p. 15.

Attendance: pp. 1, 52, 69, 114, 166.

Banerjee, Dr. Suresh Chandra

Grievances of workmen in Chitpore Loco Sheds, Eastern Bengal Railway: (Q.) p. 4.

Labour strikes in Bengal: (Q.) p. 54

Basu, Mr. Jatindra Nath

Bengal Money-lenders Bill, 1939. pp 106, 136, 154, 156, 161, 162

Bangal Legislative Building

Purchase of furniture and loud speaker equipments for (Q.) p. 123

Bengal Money-lenders Bill, 1939. Clause 24: pp. 39-41

Clause 25 pp. 42-45

Clause 28 pp 60-68

Clause 31 pp. 91-94

Clause 32. pp. 94-98.

Clause 33 pp. 98-113

Clauses 32-33: pp. 131-151.

Clause 35. pp. 152-154

Clause 36: pp. 154-156

Clause 37: pp. 157-165.

Clause 37: p. 167.

Clause 38: p. 175.

Clause 39: pp. 175-184.

Clause 40: p. 184.

Clause 41: pp. 184-185.

Bengal (Rural) Free Primary Education Act

Introduction of—in Tippera: (Q.) p. 74.

Bill

Bengal Money-lenders, 1939: pp. 39-45, 60-68, 91-94, 98-113, 131-165, 167, 175-185.

Biswas, Mr. Rasik Lal

Appointments under Education Department from Muslims and Scheduled Castes (Q.) p. 17.

Grants sanctioned during the last official year for various Muslim Institutions (Q.) p. 21.

Scholarships and stipends to Muslim students (Q.) p. 78.

Biswas, Mr. Surendra Nath

Bengal Money-lenders Bill, 1939. pp 104-106, 136-138, 145-146, 167-169, 178-179, 180, 181, 183-184

Caste Hindus

Educationally backward— (Q.) p 25.

Chakrabarty, Babu Narendra Narayan

Question regarding communal trouble in Pabna district: p. 36.

Chaudhury, Rai Narendra Nath

Bengal Money-lenders Bill, 1939: pp. 46-48, 104, 113, 152, 163-164.

Release of political prisoners: (Q.) p. 5.

Chitpore Loco Sheds, Eastern Bengal Railway

Grievances of workmen in—: (Q.) p. 4.

Civil Courts of Bakarganj

Muslim and Scheduled Castes employees in—: (Q.) p. 35.

Complaints

Of girls students of Dacca Medical School: (Q.) p. 116.

Contracts

in the Narayanganj Dockyard: (Q.) p. 12.

Contribution

Of Union Boards to Arambagh Exhibition Funds: (Q.) p. 122.

Dacca Medical School

Complaints of girl students, — (Q.) p. 116.

Report on conduct of Deputy Superintendent, —: (Q.) p. 115.

Das, Mr. Anukul Chandra

Lump grant to Kashinagar High English School, 24-Parganas (Q.) p. 82.

Das, Mr. Menomohan

Site for the free Board's primary schools in Mymensingh. (Q.) p. 76

Datta, Mr. Dhirendra Nath

Bengal Money-lenders Bill, 1939: pp. 108-110.

Dutta Mazumdar, Mr. Niharendu

Adjournment motion regarding the use of tear gas by the police in connection with a strike pp. 58, 87, 88, 89, 91.

Departmental enquiry

Over Hossainpur troubles, Mymensingh: (Q.) p. 13.

Deputy Director of Industries, Bengal

Executive powers of—. (Q.) p. 54.

Deputy Superintendent, Dacca Medical School

Report on conduct of — (Q.) p. 115.

District School Boards of Dacca and Mymensingh

Percentage of Scheduled Castes population and Scheduled Castes free primary schools under— (Q.) p. 33.

Division: p. 43

Educationally backward Caste Hindus:

(Q.) p. 25

Education Department

Appointments from various communities under— (Q.) p. 33

Appointments under from Muslims and Scheduled Castes (Q.) p. 17.

Election

Of members to the Public Accounts Committee p. 37

Emdadul Haque, Kazi

Madrasah at Jatrapur Bandar, Rangpur (Q.) p. 32

Enquiry

By Mr. Atul Chandra Ghose regarding deaths from starvation p. 37.

Executive powers

Of the Deputy Director of Industries, Bengal: (Q.) p. 54.

Externed from Calcutta and held under restraint

Number of men—: (Q.) p. 84

Fazlul Huq, the Hon'ble Mr. A. K.

Appointments from various communities under Education Department: (Q.) p. 33.

Appointments under Education Department from Muslims and Scheduled Castes. (Q.) p. 18.

Educationally backward Caste Hindus: (Q.) p. 26.

Grants sanctioned during the last official year for various Muslim institutions: (Q.) p. 21.

Grants to certain educational institutions in certain thanas in Khulna (Q.) p. 69.

Introduction of Bengal (Rural) Free Primary Education Act in Tippera. (Q.) p. 75.

Lump grant to Kashimagar High English School, 24-Parganas (Q.) p. 82.

Madrasah at Jatrapur Bandar in Rangpur (Q.) p. 32.

Muhammadan Marriage Registrar of Durgapur, Mymensingh (Q.) p. 53.

Number of primary schools in Tippera district in 1938 (Q.) p. 72.

Percentage of Scheduled Castes population and Scheduled Castes free primary schools under District School Boards of Dacca and Mymensingh (Q.) p. 34.

Post of Muslim Marriage Registrar of Barabazar, Calcutta (Q.) p. 84.

Primary schools in Tippera (Q.) p. 16.

Scholarships and stipends to Muslim students. (Q.) p. 79.

Site for the free Board's primary schools in Mymensingh (Q.) p. 77.

Special Officer for Scheduled Castes Education (Q.) p. 20.

Floods

Due to obstruction to free flow of water of river Halda in Chittagong. (Q.) p. 106.

Free Board's primary schools in Mymensingh

Site for—: (Q.) p. 76.

Furniture and loud-speaker equipment for Bengal Legislative Building

Purchase of—: (Q.) p. 123.

Ghose, Mr. Atul Chandra

Enquiry regarding deaths from starvation: p. 37.

Gournadi Mosque, Bakarganj

Incident at—: (Q.) p. 114.

Grants

Sanctioned during the last official year for various Muslim institutions: (Q.) p. 21.

To certain educational institutions in certain thanas in Khulna: (Q.) p. 69.

Grievances

Of workmen in Chitpore Loco Sheds, Eastern Bengal Railway (Q.) p. 4.

Gupta, Mr. Jogesh Chandra

Bengal Money-lenders Bill, 1939. pp. 95-96, 97, 98, 133-134.

Habibullah, the Hon'ble Nawab Bahadur K., of Dacca

Appointments in Industries Department: (Q.) p. 52.

Executive powers of the Deputy Director of Industries, Bengal: (Q.) p. 55.

Post of Officer-in-charge of the Industrial Museum under the Director of Industries, Bengal: (Q.) p. 56.

Proposed appointment of three Inspectors for Demonstration Parties under the Director of Industries, Bengal: (Q.) p. 55.

Union Board Presidents' Conference in Tippera and award of rewards, etc: (Q.) p. 71.

Vacancy caused by the death of Mr. Abdul Gani, a nominated member of Rangasree Union Board in Bakarganj: (Q.) p. 36.

Hasanuzzaman, Maulvi Md.

Introduction of Bengal (Rural) Free Primary Education Act in Tippera. (Q.) p. 74.

Union Board Presidents' Conference in Tippera and award of rewards, etc. (Q.) p. 71.

Holiday

For the Rathajatra festival p. 86.

Hossainpur troubles, Mymensingh

Departmental enquiry over— (Q.) p. 13.

Incident

At Gaurnadi Mosque, Bakarganj (Q.) p. 114.

Industrial Museum

Post of Officer-in-charge of the under the Director of Industries, Bengal (Q.) p. 56.

Industries Department

Appointments in (Q.) p. 52

Introduction

Of Bengal (Rural) Free Primary Education Act in Tippera (Q.) p. 74.

Jatrapur Bandar, Rangpur

Madrassah at— (Q.) p. 32

Kabiruddin Khan Bahadur Maulvi

Muhammadan Marriage Registrar of Durgapur, Mymensingh (Q.) p. 53.

Kashinagar High English School, 24-Parganas

Lump grant to—. (Q.) p. 82.

Khaitan, Mr. Debi Prosad

Bengal Money-lenders Bill, 1939. pp. 146-147, 164.

Labour strikes in Bengal: (Q.) p. 54.

Madrassah

At Jatrapur Bandar, Rangpur: (Q.) p. 32.

Mal, Mr. Iswar Chandra

Educationally backward Caste Hindus: (Q.) p. 25.

Mafizuddin Ahmed, Dr.

Appointments in Industries Department (Q.) p. 52

Executive powers of the Deputy Director of Industries, Bengal (Q.) p. 54.

Post of Officer in-charge of the Industrial Museum under the Director of Industries, Bengal (Q.) p. 56.

Proposed appointment of three Inspectors for Demonstration Parties under the Director of Industries, Bengal (Q.) p. 55.

Mandal, Mr. Banku Behari

Special Officer for Scheduled Castes Education (Q.) p. 20

Maqbul Hosain, Mr.

Number of primary schools in Tippera district in 1938 (Q.) p. 71

Medical College Hospitals

Temporary staff in the administrative department of (Q.) p. 14.

Millar, Mr. C.

Bengal Money-lenders Bill, 1939: pp. 107-108

Money-lenders Bill Bengal, 1939: pp. 39-45, 60-68, 91-94, 98-113, 131-165, 167, 175-185.

Moni Begum Deposit Fund: (Q.) p. 1.

Muhammadan Marriage Registrar

Of Durgapur, Mymensingh: (Q.) p. 53.

Muhammad Israil, Maulvi

Bengal Money-lenders Bill, 1939: pp. 147-148.

Departmental enquiry over Hossainpur troubles, Mymensingh: (Q.) p. 13

Mukerji, Mr. Dhirendra Narayan

Contribution of Union Boards to Arambagh Exhibition Funds: (Q.) p. 122.

Musharruff Hossain, the Hon'ble Nawab, Khan Bahadur

Muslim and Scheduled Castes employees in the Civil Courts of Bakarganj. (Q.) p. 35.

Muslims and Scheduled Castes

Appointments under Education Department from—: (Q.) p. 17.

Employees in the Civil Courts of Bakarganj (Q.) p. 35

Muslim

Institutions Grants sanctioned during the last official year: (Q.) p. 21

Marriage Registrar of Barabazar, Calcutta, Post of (Q.) p. 84.

Muslim students

Scholarships and stipends to—: (Q.) p. 78.

Mustafa Ali Dewan, Maulvi

Re-excavation of the river Titas in Tippera: (Q.) p. 34.

Nandy, the Hon'ble Maharaja Srischandra, of Cossimbazar

Floods due to obstruction to free flow of water of river Halda in Chittagong: (Q.) p. 166.

Re-excavation of the river Titas in Tippera: (Q.) p. 34.

Narayanganj Dockyard

Contracts in—: (Q.) p. 12.

Nazimuddin, the Hon'ble Khwaja Sir

Adjournment motion regarding the use of tear gas by the police in connection with a strike: pp. 59, 88, 89, 91.

Contribution of Union Boards to Arambagh Exhibition Funds: (Q.) p. 122.

Departmental enquiry over Hossainpur troubles, Mymensingh: (Q.) p. 13.

Holiday for Rathajatra festival: (Q.) p. 87.

Incident at Gournadi Mosque, Bakarganj (Q.) p. 114.

Moni Begum Deposit Fund. (Q.) p. 2

Number of men externed from Calcutta and held under restraint (Q.) p. 85

Purchase of furniture and loud-speaker equipments for Bengal Legislative Building. (Q.) p. 123

Release of political prisoners (Q.) p. 6.

Theft and burglary in Daudkandi police-station, Tippera (Q.) p. 86.

Number of

Men externed from Calcutta and held under restraint (Q.) p. 84.

Primary schools in Tippera district in 1938. (Q.) p. 71.

Oath or affirmation

Saheb Alam, Mr. Syed. p. 69.

Percentage

Of scheduled castes population and scheduled castes free primary schools under District School Boards of Dacca and Mymensingh: (Q.) p. 33.

Point of order

Regarding supplementary questions by Mr. Abdur Rahman Siddiqi: p. 38.

Political prisoners

Release of—: (Q.) p. 5.

Post of

Muslim Marriage Registrar of Barabazar, Calcutta: (Q.) p. 84

Officer-in-charge of the Industrial Museum under the Director of Industries, Bengal (Q.) p. 56.

Pramanik, Mr. Tarini Charan

Report on conduct of Deputy Superintendent, Dacca Medical School (Q.) p. 115

Primary schools

In Tippera (Q.) p. 15

Number of—in Tippera district in 1938 (Q.) p. 71.

Proposed appointment

Of three Inspectors for Demonstration Parties under the Director of Industries, Bengal (Q.) p. 55

Public Accounts Committee

Election of Members to— p. 37.

Purchase

Of furniture and loud-speaker equipments for Bengal Legislative Building: (Q.) p. 123.

Ramizuddin Ahmed, Mr.

Theft and burglary in Daudkandi police-station, Tippera (Q.) p. 85

Rathajatra festival

Holiday for—. (Q.) p. 86.

Re-excavation

Of the river Titas in Tippera: (Q.) p. 34.

Release

Of political prisoners: (Q.) p. 5.

Report

On conduct of Deputy Superintendent, Dacca Medical School: (Q.) p. 115.

Roy, Mr. Dhananjoy

Percentage of Scheduled Castes population and Scheduled Castes free primary schools under District School Boards of Dacca and Mymensingh (Q.) p. 33

Sadaruddin Ahmed, Mr.

Vacancy caused by the death of Mr. Abdul Gani, a nominated member of Rangasree Union Board in Bakarganj (Q.) p. 36

Saiin, Mr. S. A.

Contracts in the Narayanganj Dockyard (Q.) p. 12

Sanyal, Dr. Nalinaksha

Bengal Money-lenders Bill, 1939. pp. 39, 92-93, 94, 110-112, 154-155, 159-161, 169-171

Complaints of girl students of Dacca Medical School (Q.) p. 116.

Holiday for Rathajatra festival: (Q.) p. 86.

Purchase of furniture and loud-speaker equipments for Bengal Legislative Building. (Q.) p. 123.

Scheduled Castes Education

Special Officer for—. (Q.) p. 20.

Scholarships and stipends

To Muslim students: (Q.) p. 78.

Sen, Babu Nagendra Nath

Bengal Money-lenders Bill, 1939: pp. 40, 103, 106-107, 134, 135, 144, 149, 181-182

Grants to certain educational institutions in certain thanas in Khulna (Q.) p. 69.

Site

For the free Board's primary schools in Mymensingh (Q.) p. 76

Special Officer

For Scheduled Castes Education (Q.) p. 20.

Speaker, Mr. (the Hon'ble Khan Bahadur M. Azizul Haque, C.I.E.) Rulings and Observations of

Regarding clause 32 of Bengal Money-lenders Bill, 1939 p. 96.

Regarding system of interpellation p. 38.

On adjournment motion regarding use of tear gas by the police in a strike: pp. 89-90.

Regarding amendments to clause 33 of Bengal Money-lenders Bill, 1939 p. 99.

Suhrawardy, the Hon'ble Mr. H. S.

Bengal Money-lenders Bill, 1939: pp 41, 46, 48-51, 60, 64, 96, 97, 98, 99-100, 102, 103, 131, 132, 134, 138, 139, 140, 141, 142, 143, 144, 150-151, 152, 153, 154, 156, 157, 171-174, 176, 180.

Contracts in the Narayanganj Dockyard (Q.) p 12.

Suhrawardy, the Hon'ble Mr. H. S.— *Contd.*

Grievances of workmen in Chitpore Loco Sheds, Eastern Bengal Railway: (Q.) p. 4.

Labour Strikes in Bengal: (Q.) p. 54.

Tamizuddin Khan, the Hon'ble Mr.

Complaints of girl students of Dacca Medical School (Q.) p. 116.

Report on conduct of Deputy Superintendent, Dacca Medical School: (Q.) p. 115

Temporary staff in the administrative department of Medical College Hospitals (Q.) p. 15.

Temporary staff

In the administrative department of Medical College Hospitals (Q.) p 14

Theft and burglary

In Daudkandi police-station, Tippera (Q.) p 85

Tippera

Primary schools in— (Q.) p 15.

Titas river

Re-excavation of the—in Tippera: (Q.) p. 84.

Union Board Presidents' Conference

In Tippera and award of rewards, etc.: (Q.) p 71.

Vacancy

Caused by the death of Mr. Abdul Gani, a nominated member of Rungasree Union Board in Bakerganj: (Q.) p. 36.

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